LAWS, RESOLUTIONS AND MEMORIALS

OF THE

TERRITORY OF MONTANA,

PASSED AT THE

TWELFTH REGULAR SESSON

OF THE

LEGISLATIVE ASSEMBLY,

Held at Helena, the seat of government of said Territory, commencing January 10th, A. D. 1881, and ending February 23d, A. D. 1881.

PUBLISHED BY AUTHORITY OF THE UNITED STATES.

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1881.

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ERRATA IN LAWS, ETC., OF MONTANA, PASSED AT THE TWELFTH REGULAR SESSION.

Page 4, section 3, side note, for *when* read *where.*
Page 9, section 5, line 8, after *all* insert *the.*
Page 10, section 7, line 6, omit *the* after *against.*
Page 14, line 2, for *limit* read *limits.*
Page 14, section 5, line 2, for *pulished* read *printed.*
Page 15, section 8, last line, for *elections* read *election.*
Page 28, line 2, third paragraph, for *by-laws* read *by-law.*
Page 29, section 40, line 7, omit *when* in brackets.
Page 30, section 44, line 20, for *damage* read *damages,*
Page 33, line 18, after *be* insert *so.*
Page 34, section 52, line 19, before *delinquent* insert *list of.*
Page 35, section 55, line 9, omit *any* after *of.*
Page 35, section 56, line 18, for *case* read *cases.*
Page 35, section 56, line 20, for *action* read *actions.*
Page 37, section 61, line 2, for penalty *of* read penalty *or.*
Page 47, section 3, line 3, for *another* read *other.*
Page 53, section 4, line 7, omit *or* after *Secretary.*
Page 58, section 2, line 13, omit *the* before *court.*
Page 66, section 1, line 3, insert *present* before *penitentiary.*
Page 70, section 4, line 9, omit *be* before *liable.*
Page 71, section 7, line 11, omit *any* after *from,* and insert *any* after *operating.*
Page 89, section 3, line 5, for *coupon bonds* read *coupons.*
Page 91, section 2, line 3, for *signatures* read *signature.*
Page 104, section 2, line 12, for *persons* read *person.*
Page 105, section 5, line 3, omit *the* before *presentation.*
Page 106, section 3, line 8, omit *the* after *sell.*
Page 109, section 8, line 4, omit *the* after *of.*
Page 109, section 2, line 6, omit *the* before *said.*
Page 112, seetion 2, line 4, after *twenty-nine* insert *thirty.*
Page 122, section 3 line 5, insert *said* before *county.*
Page 127, second resolution, line 6, for *warrant* read *warrants.*

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CERTIFICATE OF AUTHENTICATION.

TERRITORY OF MONTANA, }
SECRETAY'S OFFICE. } ss.

I, JAMES H. MILLS, Secretary of the Territory of Montana, do hereby certify that the printed Laws, Resolutions and Memorials contained in this volume, are true and correct copies of all the enrolled Laws, Resolutions and Memorials (except the Revised Statutes of Montana) that were passed at the Twelfth Regular Session of the Legislative Assembly of said Territory, begun January 10th, A. D. 1881, and ending February 23d, A. D. 1881, and held at Helena, the seat of government of said Territory, with the exceptions of corrections in orthography and punctuation, and omissions or substitute words inserted in brackets.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of said Territory. Done at Helena, the seat of government of the Territory of Montana, this 20th day of April, A. D. 1881.

[SEAL]

JAMES H. MILLS,
Secretary of Montana.

GOVERNOR OF MONTANA.....BENJAMIN F. POTTS.

MEMBERS

OF THE

TWELFTH LEGISLATIVE ASSEMBLY.

COUNCIL.

FIRST COUNCIL DISTRICT.—CUSTER, GALLATIN, JEFFERSON AND MADISON COUNTIES.

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W. O. P. HAYS.....Bozeman, Gallatin County.
J. B. HUBBELL.....Miles City, Custer County.
WILLIAM W. MORRIS.....Virginia City, Madison County.

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JOSEPH A. BROWNE.....Darling, Beaverhead County.
ARMISTEAD H. MITCHELL.....Deer Lodge, Deer Lodge County.
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WILLIAM B. HUNDLEY.....Helena, Lewis and Clarke County.
J. C. KERLEY.....Fort Logan, Meagher County.
JOSEPH K. TOOLE, *President*.....Helena, Lewis and Clarke County.

HARRY R. COMLY.....Chief Clerk.
HADEN E. RIDDLE.....En. and En. Clerk.
THOS. B. HARPER.....Sergeant-at-Arms.
BUCHANAN DILLARD.....Watchman.
DANNIE SWEENEY.....Messenger.
REV. J. T. MASON.....Chaplain.

HOUSE OF REPRESENTATIVES.

NAMES OF MEMBERS.	COUNTIES REPRESENTED.	POST OFFICE.
ELIZUR BEACH	Lewis and Clarke	Helena.
JOHN M. BELL	Deer Lodge	Butte.
HENRY N. BLAKE	Madison	Virginia City.
HENRY CHAMBERS	Missoula	Skalkaho.
ISRAEL CLEM	Deer Lodge	Beartown.
A. L. CORBLY	Gallatin	Spring Hill.
WILLIAM E. CULLEN	Lewis and Clarke	Helena.
W. D. DAVIS	Beaverhead and Missoula, jointly	Dillon.
STEPHEN DEWOLFE	Deer Lodge	Butte.
JOHN J. DONNELLY, *Speaker*	Choteau and Dawson, jointly	Ft. Benton.
AMOS EASTMAN	Jefferson and Madison, jointly	Fish Creek.
JAMES H. GARLOCK	Custer	Miles City.
MICHAEL HANLEY	Gallatin	Central Park.
CURT. L. HARRINGTON	Custer and Meagher, jointly	White's Gulch.
CHRISTIAN B. HOUSER	Deer Lodge	Butte.
ROBERT G. HUMBER	Deer Lodge	Deer Lodge.
HENRY A. KENNERLY	Choteau and Dawson, jointly	Ft. Benton.
HENRY M. PARCHEN	Lewis and Clarke	Helena.
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OSCAR A. SEDMAN	Madison	Adobetown.
JOHN STEDMAN	Lewis and Clarke	Helena.
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JAMES W. KEMPER.....En. and En. Clerk.
D. H. LINEBARGER.....Sergeant-at-Arms.
H. V. B. GIBSON.....Watchman.
LEON A. LACROIX.....Messenger.
REV. W. SCOTT STITES.....Chaplain.

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GENERAL LAWS.

ACKNOWLEDGMENTS—FOREIGN.

AN ACT to provide for the acknowledgment of any power of attorney, or instrument of conveyance affecting real estate, by parties residing without the jurisdiction of the Territory of Montana, and outside the jurisdiction of the United States.

Be it enacted by the Legislative Assembly of the Territory of Montana:

By whom proof taken.

SECTION 1. The proof of acknowledgment of every power of attorney, or conveyance affecting real estate, within the Territory of Montana, made and executed without the jurisdiction of the United States, shall be taken by some one of the following officers, to-wit: A notary public, or United States consul of any State, province, republic, kingdom or empire; and when so taken and acknowledged before either of said officers and by them certified under their seal of office, shall be entitled to be recorded in any county in which any real estate may be situate affected by such power of attorney or conveyance.

Form of acknowledgment.

SEC. 2. Such certificate shall be substantially in the following form, to-wit:

..... } ss.
..... }

On this —— day of ——— A. D. —— personally appeared before me, a notary public (or consul of the United States, as the case may be) in and for ———— A B, personally known to me to be the person described in and who executed the foregoing instrument, and who acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

SEC. 3. This act to take effect and be in force from and after its passage.

APPROVED February 18, 1881.

ASSAYERS—LICENSE REPEALED.

AN ACT to repeal the license required from assayers.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Repeal.

SECTION 1. That section 794, of the fifth division of the Revised Statutes, be amended by repealing the seventh clause thereof, requiring assayers to pay a license.

APPROVED February 14, 1881.

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ANIMALS—CRUELTY TO.

AN ACT concerning cruelty to domestic animals.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 172 of the fourth division of the Revised Statutes be amended so as to read as follows:

Punishment for cruelty to domestic animals.

SECTION 172. Every person who shall be guilty of cruelty to any horse, ox, mule, ass, or other domestic animal in any of the ways mentioned in this section, shall, upon conviction, be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, viz:

First. By overloading, overdriving, overworking, or cruelly beating, torturing, tormenting, or mutilating any of said animals.

Second. By cruelly working any old, maimed, infirm, sick or disabled domestic animal, or knowingly allowing the same to be done.

Third. By unnecessarily failing to provide any of said animals in his charge or custody, as owner or otherwise, with proper food, drink, or shelter.

Fourth. By carrying or driving, or causing to be carried or driven, or kept, any of said animals in an unnecessarily cruel manner.

APPROVED February 7, 1881.

BOARD OF PRISONERS—FEES.

AN ACT to regulate the fees of sheriffs for board of prisoners.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Repeal of sections.

SECTION 1. That all those portions of sections 585 and 748 of the fifth division of the Revised Statutes, referring or relating to, or providing for, fees or compensation allowed the sheriffs of the several counties for the board, or diet, of prisoners be, and the same are hereby repealed. That the following clause be added to section 585 of the fifth division of the Revised Statutes:

Fees for board limited.

The fees allowed sheriffs of the respective counties of the Territory of Montana, for board of prisoners, shall be such as the county commissioners may deem a reasonable compensation therefor, not to exceed the sum of one and one-quarter dollars per day.

APPROVED February 10, 1881.

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CATTLE AND SHEEP FOUND DEAD.

AN ACT concerning the skinning of cattle and sheep found dead.

Be it enacted by the Legislative Assembly of the Territory of Montana.

Misdemeanor to skin neat cattle or sheep found dead.

SECTION 1. Any person or persons who may skin, or remove from the carcass any part of the skin, hide or pelt of any neat cattle or sheep found dead, without written permission from the owner or owners, shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be fined in any sum not less than ten dollars, nor more than one hundred dollars for each offence committed: *Provided,* Nothing herein shall be deemed to prevent the skinning of animals killed by railroad companies, by the employees of any railroad company by which such stock may have been killed. The parties skinning any stock, as authorized under the provisions of this act to skin said stock, shall be compelled to remove the same a distance of not less than one-fourth of a mile from any occupied house. A failure to comply with the foregoing provision by any party or parties so skinning said stock, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not to exceed twenty dollars for the first offence, and for each subsequent offence twenty dollars.

Railroad companys exempted; must remove carcass.

APPROVED February 22, 1881.

CHATTEL MORTGAGES.

AN ACT concerning chattel mortgages.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Requisite of validity.

SECTION 1. No mortgage of goods, chattels or personal property, shall be valid as against the rights and interests of any other person than the parties thereto, unless the possession of such goods, chattels or personal property be delivered to, and retained by the mortgagee, or the mortgage provide that the property may remain in the possession of the mortgagor, and be accompanied by an affidavit of all the parties thereto, or, in case any party is absent, an affidavit of those present, and of the agent or attorney of such absent party, that the same is made in good faith to secure the amount named therein, and without any design to hinder or delay the creditors of the mortgagor, and be acknowledged and filed as hereinafter provided.

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By whom acknowledgment made.

SEC. 2. Every mortgage of goods, chattels, or personal property shall be acknowledged by the mortgagor, or person executing the same, in the manner provided for the acknowledgment of conveyances of real property, before some officer authorized by law to take acknowledgments of deeds.

When mortgage shall be filed.

SEC. 3. Every mortgage of goods, chattels, or personal property, together with the affidavit of the parties thereto, or a true copy thereof, certified to be correct by the recorder or person before whom the acknowledgment has been taken, shall be filed in the office of the recorder of deeds of the county, where the mortgagor resides, or, in case he is not a resident of this Territory, then in the office of the recorder of deeds of the county where the goods, chattels, or personal property may be at the time of the execution of the mortgage; and such recorder of deeds shall, on receipt of such mortgage, or copy, endorse thereon the time of receiving the same, and file and keep the same in his office for the inspection of all persons, and shall enter in a book, properly ruled and kept for that purpose, the names of all the parties, the names of the mortgagors to be alphabetically arranged, the date of such mortgage, the consideration thereof, the date of its maturity and the time of filing the same.

Duty of Recorder.

Mortgage good for not exceeding one year.

SEC. 4. Any mortgage of goods, chattels, or personal property, acknowledged and filed, as hereinbefore provided, shall thereupon, if made in good faith, be good and valid as against the creditors of the mortgagor and subsequent purchasers and mortgagees from the time it is so filed until the maturity of the entire debt, or obligation, for the security of which the same was given, and for a period of twenty days thereafter: *Provided*, Said time shall not exceed one year.

Mortgaged chattels; how taken.

SEC. 5. Personal property, mortgaged, may be taken on attachment or execution issued at the suit of a creditor of the mortgagor; but before the property is so taken the officer must pay or tender to the mortgagee the amount of the mortgage debt and interest, or must deposit the amount thereof with the county treasurer of the county wherein the mortgaged property is found, payable to the order of the mortgagee.

Fees of Recorder.

SEC. 6. For his services as provided in section three of this act, the recorder shall be entitled to receive the sum of one dollar for each mortgage of personal property filed in his office.

If original lost, certified copy may be read.

SEC. 7. A copy of any mortgage of goods, chattels or personal property made, acknowledged and filed as provided in this act, certified by the recorder in whose office the same shall be filed, may be read in evidence in any court in this Territory without further proof of the execution of the original, if said original be lost or out of the power of the person wishing to use it.

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To what the act extends.

SEC. 8. The provisions of the foregoing sections of this act shall extend to all such bills of sale, deeds of trust and other conveyances of goods, chattels or personal property as shall have the effect of a mortgage or lien upon such property.

Action for foreclosure; how conducted.

SEC. 9. An action for the foreclosure of a mortgage of personal property, or the enforcement of any lien thereon of whatever nature, may be commenced and conducted in the same manner as provided by law for the foreclosure of mortgages and liens upon real property, and the same may be joined in an action for the recovery of the possession of the property mortgaged; but it shall be lawful for the mortgagor of goods, chattels or personal property, to insert in his mortgage a clause authorizing the sheriff of the county in which such property, or any part thereof, may be, to execute the power of sale therein granted to the mortgagee, his legal representative and assigns, in which case the sheriff of such county, at the time of such sale, may advertise and sell the mortgaged property in the manner provided in such mortgage; and at any such sale, made as aforesaid, the mortgagee, his representative or assigns, may, in good faith, purchase the property so sold, or any part thereof.

Fees of sheriff.

SEC. 10. The sheriff making a sale of mortgaged property, as in the foregoing section provided, shall be entitled to receive, as his compensation, the same fees as upon sales of personal property on execution.

Satisfaction; how entered.

SEC. 11. Whenever the debt or obligation secured by any mortgage of personal property, which has been filed in the office of the recorder of deeds, as provided in this act, shall be paid or discharged, an acknowledgment of satisfaction, signed by the mortgagee, his legal representatives or assigns, must be endorsed upon the mortgage or copy thereof, filed as aforesaid, and the fact of such discharge and satisfaction noted by the recorder, in the book kept by him as provided in section three of this act, opposite the names of the parties to such mortgage.

Penalty for mortgageor selling mortgaged chattels.

SEC. 12. Any person having conveyed any goods, chattels, or personal property to another by mortgage, who shall, during the existence of the lien or title created by such mortgage, sell the said goods, chattels, or personal property, or any part thereof, to a third person for a valuable consideration, without informing him of the existence and effect of such mortgage, shall forfeit and pay to the purchaser twice the value of such property so sold, which forfeiture may be recovered in an action of debt in any court having jurisdiction thereof.

Penalty for destroying, concealing or removing, etc.

SEC. 13. Any mortgagor or agent, servant or employee of any mortgagor of personal property, who shall, during the time such mortgage remains in force and virtue, destroy, conceal, sell, or otherwise dispose of the whole or any part of the property mortgaged, or who shall

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remove the same, or any part thereof, from the county in which such mortgage is filed, without the written consent of the mortgagee, his legal representatives or assigns, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment at the discretion of the court.

SEC. 14. That Chapter XLVI of the fifth division of the Revised Statutes of Montana be, and the same is, hereby repealed.

APPROVED February 19, 1881.

CLERK OF SUPREME COURT—FEES.

AN ACT to establish the fees of the clerk of the supreme court.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Fees of clerk.

SECTION 1. The clerk of the supreme court shall receive the following fees:

For entering each motion, order, rule, continuance, denial or judgment, first folio	$ 50
Each subsequent folio	20
For copy of any record, opinion of court, or any paper on file, per folio	20
For filing transcript	1 00
For certificate and seal	1 00
For entering each cause on the docket	25
For each remittitur or mandate, per folio	20
For searching records on file in his office, except for bar or suitor	50
For filing each paper	20
For certificate of admission of attorneys, entering names on roll, and all services connected therewith	5 00
For administering each oath and certifying to the same	25
For acknowledgment and seal	1 00
For making transcript on appeal to the supreme court of the United States, per folio	15
For making any other record or entry not herein provided for, per folio	15
For indexing entries, each name	10
For taking and approving each bond and undertaking	1 00

APPROVED February 15, 1881.

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CLERKS OF COURTS AND SHERIFFS.

AN ACT defining the duties of clerks of courts and sheriffs in certain cases.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Civil papers by mail.

SECTION 1. It shall be lawful for the clerk of any court of record in this Territory, at the request of a party in any civil action pending in such court, his agent or attorney, to forward by mail any process, summons, or other papers required in the cause, and the sheriff or other officer to whom said papers may be directed, or who shall receive the same for service, shall be entitled to charge mileage only from the point at which such process was received and the point of service; but in such case it shall be lawful for the officer to return the process to the court in like manner as received: *Provided*, That in no case shall the officer receiving papers for service be required to serve the same unless the person in whose behalf the service is made, his agent or attorney, shall first pay the costs of service upon a demand therefor by the officer.

Mileage limited.

Prepayment of service.

When in different counties.

SEC. 2. When process in one county is intended for service in another, it shall be the duty of the clerk to forward the same in like manner as in the previous section, and the sheriff or officer serving the same shall be entitled to like mileage and no more, and may make like return of the paper as in said section.

Subpœnas in criminal cases.

SEC. 3. In all criminal prosecutions, subpœnas may be issued for witnesses in another county. In such case, it shall be the duty of the clerk of the court in which the prosecution is pending to mail the subpœna to the sheriff of the county in which the witness resides. Upon receiving the same, it shall be the duty of the sheriff forthwith to serve the same, if the witness can be found, and to return as soon as may be the subpœna by mail to the clerk of the court, with his service endorsed thereon. The sheriff shall be entitled to like fees for his services as in other cases of serving subpœnas.

Penalties.

SEC. 4. Any sheriff or other officer violating the provisions of this act shall be liable to the penalties prescribed in section 413 of the fifth division of the Revised Statutes.

SEC. 5. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 6. This act shall take effect and be in force from and after its passage.

APPROVED February 22, 1881.

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CODE OF CIVIL PROCEDURE.

AN ACT to amend the Code of Civil Procedure.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 44 of the Code of Civil Procedure be amended so as to read as follows:

Action to be commenced; when.

SECTION 44. An action upon a contract, account or promise, whether express or implied, which is not founded upon a written instrument signed by the party chargeable therewith, shall be commenced within three years from the time the cause of action accrued. If the action be upon an open and running account, the computation of time shall be from the date of the last item thereof.

SEC. 2. That section 45 of said code be amended so as to read as follows:

For a penalty.

SECTION 45. In an action for a penalty or forfeiture, when the action is given to an individual, or to an individual and the Territory, except when the statute imposing it prescribes a different limitation.

Against officer for escape.

Second. An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

For libel, etc.

Third. Actions for libel, assault, assault and battery, and false imprisonment, shall be commenced within one year from the time the cause of action accrued.

SEC. 3. That the second subdivision of section 72 of said code be amended so as to read as follows:

How summons served against foreign corporation.

Second. If the suit is against a foreign corporation, to the president, secretary or managing agent within this Territory, or to a person designated for the purpose by a writing under the seal of such corporation and the signature of its president, vice-president or other acting head, accompanied with the written consent of the person designated, and filed in the office of the Secretary of the Territory. The designation must specify a place of residence of the person so designated, and shall remain in force until the filing in the same office of a written revocation thereof, or of the consent, executed in like manner; but the person so designated may from time to time change the place of his residence to some other place in the Territory, by a writing executed by him, and filed in like manner. An exemplified copy of a designation so filed, accompanied with a certificate that it has not been revoked, is presumptive evidence of the execution thereof, and conclusive evidence of the authority of the officer executing it. If neither of the officers above named, or a person so designated, can, after due diligence, be found within the Territory, and the corporation has property within this Territory, service may be made by publication of summons as hereinafter provided.

SEC. 4. That section 73 of said code be amended so as to read as follows:

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Where person to be served is out of Territory.

SECTION 73. When the person on whom the service is to be made resides out of the Territory, or has departed from the Territory, or cannot, after due diligence, be found within the Territory, or conceals himself to avoid the service of summons, and the facts appear by affidavit to the satisfaction of the court, or judge thereof, and it also appears by such affidavit, or a verified complaint on file, that a cause of action exists against the defendant in respect to whom the service is to be made, or that he is a necessary or proper party to the action, such court or judge may make an order that the service be made by the publication of the summons. And, in all cases when the action is for the collection or enforcement of a moneyed claim, obligation or demand against the persons upon whom such service is sought to be had, it shall also be made to appear by said affidavit, or other satisfactory evidence, that some property or effects of the defendant, or in which he has an interest, has been attached in pursuance of the statute in such case provided, describing the property or effects so attached, which shall be set forth in the order of the court, or judge, directing the publication of the summons, and recited in the summons published in pursuance of such order.

SEC. 5. That section 78 of said code be amended so as to read as follows:

Jurisdiction; when court is deemed to have acquired.

SECTION 78. From the time of the service of the summons in a civil action, or the completion of the publication, when service by publication is ordered, the court is deemed to have acquired jurisdiction of the parties or property, as the case may be, and to have control of all subsequent proceedings. The voluntary appearance of a defendant is equivalent to personal service of the summons upon him. And in all cases when there has been property of the defendant attached to secure any judgment that may be recovered against him, and there is no personal service on such defendant within the Territory, or voluntary appearance as aforesaid, the judgment and execution shall be against the property attached as provided by section 73 of this act.

SEC. 6. That section 180 of said code be amended so as to read as follows:

Undertaking; sureties, award and creditors.

SECTION 180. Before issuing the writ, the clerk shall require a written undertaking on the part of the plaintiff, with two or more sufficient sureties, to be approved by the clerk, in a sum not less than double the amount claimed by the plaintiff, if such amount be one thousand dollars or under, or in case the amount so claimed by plaintiff shall exceed one thousand dollars, then in a sum equal to such amount, but in no case shall an undertaking be required exceeding in amount the sum of ten thousand dollars. The condition of such undertaking shall be to the effect that if the defendant recover judgment, or if the court shall finally decide that the

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plaintiff was not entitled to an attachment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages he may sustain by reason of the issuing out of the attachments, not exceeding the sum specified in the undertaking. Within five days after service of the summons in the action, the defendant may except to the sufficiency of the sureties. If he fail to do so he is deemed to have waived all objection to them. When excepted to, the plaintiff's sureties, upon notice to the defendant of not less than two days nor more than five days, must justify before a judge of the district or probate court, or before a county clerk, and upon failure to justify, or if others in their place fail to justify, at the time and place appointed, the clerk or judge shall issue an order vacating the writ of attachment.

Causes for new trial.

SEC. 7. That section 285 of the said code be amended by adding thereto the following subdivisions:

Fifth. Excessive damages appearing to have been given under the influence of passion or prejudice.

Sixth. Insufficiency of the evidence to justify the verdict or other decision, or that it is against the law.

Seventh. Error in law occurring at the trial and excepted to by the party making the application.

SEC. 8. That there be added to Chapter III of Title IX of said code the following additional section, to-wit:

Proceedings to obtain order to inspect or survey mine in possession of other person.

SECTION 363. A. Whenever any person shall have any right to, or interest in any lead, lode, or mining claim which is in the possession of another person, and it shall be necessary for the ascertainment, enforcement or protection of such right or interest that an inspection, examination, or survey of such mine, lode, or mining claim should be had or made, or whenever any inspection, examination or survey of any such lode or mining claim shall be necessary to protect, ascertain or enforce the right or interest of any person in another mine, lead, lode, or mining claim, and the person in possession of the same shall refuse, for a period of three days after demand therefor in writing, to allow such inspection, examination or survey to be had or made, the party so desiring the same may present to the district court, or a judge thereof, of the county wherein the mine, lead, lode or mining claim is situated, a petition, under oath, setting out his interest in the premises, describing the same, that the premises are in the possession of a party, naming him, the reason why such examination, inspection, or survey is necessary, the demand made on the person in possession so to permit such examination, inspection, or survey, and his refusal so to do. The court or judge shall thereupon appoint a time and place for hearing such petition, and shall order notice thereof to be served upon the adverse party, which notice shall be served at least one day before the day of hearing. On the hearing, either party may read affidavits, and if the

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court or judge is satisfied that the facts stated in the petition are true, he shall make an order for an inspection, examination, or survey of the lode or mining claim in question, in such manner, at such time, and by such persons as are mentioned in the order. Such persons shall thereupon have free access to such mine, lead, lode or mining claim for the purpose of making such inspection, examination or survey, and any interference with such persons while acting under such order shall be a contempt of court. If the order of the court is made while an action is pending between the parties to the order, the costs of obtaining the order shall abide the result of the action, but all costs of making such examination or survey shall be paid by the petitioner.

SEC. 9. That there shall be, and is hereby, added to section 535 of said code, the following section:

Order to inspect or obtain copy, book, or paper in possession of other party.

SECTION. 535. A. Any court in which an action is pending, or a judge thereof, may, upon notice, order either party to give to the other within a specified time an inspection and copy, or permission to take a copy, of any book, document or paper in his possession or under his control, containing evidence relating to the merits of the action or the defense therein. If compliance with the order be refused, the court may exclude the book, document or paper from being given in evidence, or, if wanted as evidence by the party applying, may direct the jury to presume it to be such as he alleges it to be; and the court may also punish the party refusing as for a contempt. This section shall not be construed so as to prevent a party from compelling another to produce books, papers or documents when he is examined as a witness.

SEC. 10. That section 482 of said code be so amended as to read as follows:

When costs allowed plaintiff of course.

SECTION 482. Costs may be allowed of course to the plaintiff upon a judgment in his favor in the district court in the following cases:

First. In an action to recover real property.

Second. In an action to recover the possession of personal property when the value of the property amounts to fifty dollars or over, such value shall be determined by the jury, court or referee by whom the action is tried.

Third. In an action for the recovery of money or damages when the plaintiff recovers fifty dollars or over.

Fourth. In special proceedings in the nature of an action.

SEC. 11. That section 485 of the said code be amended so as to read as follows:

Discretion to allow costs, not exceeding $50.

SECTION 485. In other actions than those mentioned in section 482 of this act, costs may be allowed or not, and if allowed may be apportioned between the parties on the same or adverse sides, in the discretion of the

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court; but no costs shall be allowed in an action begun in the district court for the recovery of money or damages when the plaintiff recovers less than fifty dollars, nor in any action begun in the same court to recover the possession of personal property when the value of the property is less than fifty dollars.

SEC. 12. That there be added to section 625 of said code the following additional sections, to-wit:

Of what facts courts take judicial notice.

SECTION 625. A. The party producing a writing as genuine, which has been altered or appears to have been altered after its execution, in a part material to the question in dispute, and such alteration is not noted on the writing, shall account for the appearance or alteration. He may show that the alteration was made by another without his concurrence, or was made with the consent of the parties affected by it, or was otherwise properly or innocently made. If he do that he may give the writing in evidence, but not otherwise.

SEC. 625. B. A judicial record of this Territory, or of the United States, may be proved by the production of the original, or a copy thereof, certified by the clerk or other person having the legal custody thereof, under the seal of the court, to be a true copy of such record.

SEC. 625. C. Printed copies, in volumes, of statutes, codes, or other written law of any other Territory or State, purporting, or proven, to have been published by the authority thereof, or proved to be commonly admitted as evidence of the existing law in the courts and judicial tribunals of such State or Territory, shall be admitted by courts and officers of this Territory as presumptive evidence of such law.

SEC. 13. That there be added after section 654 of said code the following additional section, to-wit:

Evidence of publication.

SECTION 654. A. Evidence of the publication of a document or notice required by law, or by an order of a court or judge, to be published in a newspaper, may be given by the affidavit of the printer of a newspaper, or his foreman, or principal clerk, annexed to a copy of the document or notice, specifying the time when, and the papers in which the publication was made.

APPROVED February 23, 1881.

COMPENSATION OF COUNSEL.

AN ACT to provide for the compensation of counsel in certain criminal cases.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Counsel appointed in criminal cases to be compensated.

SECTION. 1. Whenever, in a criminal action or proceeding in the district court, any attorney at law shall defend a person charged with any offence, by order of

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the court, on the ground that the accused is unable to procure or employ counsel for himself, the county in which such criminal action or proceeding may have arisen shall be liable to pay such attorney for his services such sum as the court, in which such services shall be performed, shall certify to be a reasonable compensation therefor, not to exceed in any capital case the sum of fifty dollars; in other cases of felony a sum not exceeding twenty-five dollars; and in all other cases a sum not exceeding ten dollars.

APPROVED February 23, 1881.

CONCERNING CORPORATIONS.

AN ACT concerning corporations.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Where report is filed liability not to attach for non-publication.

SECTION 1. That no liability shall attach to any trustee, or board of trustees, by virtue of the provisions of section 258 of the fifth division of the Revised Statutes for a failure to cause to be published in a newspaper the report in said section mentioned, if within the time therein mentioned said trustee, or board of trustees, or company shall annually cause said report to be filed in the office of the county clerk and recorder of the county in which the business of the said company is carried on as delared in its certificate of incorporation.

APPROVED February 22, 1881.

CORPORATIONS—MUNICIPAL.

AN ACT to provide for municipal corporations in the Territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Minimum area to be incorporated.

SECTION 1. That any part of any county within this Territory, not less than one square mile in area, and not included in any incorporated town and city, and all lying in the same county, which shall have a resident population of not less than three hundred persons to every square mile thereof, may, upon compliance with the conditions of this act, become incorporated as a town, by such name as shall be designated in the order of the court for its incorporation, with the ordinary powers of municipal corporations, and such as are conferred by this act.

To have 300 residents, and be named.

Survey to be made.

SEC. 2. The persons intending to make the application, as hereinafter provided for the incorporation of such town, shall cause to be made by a competent prac-

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tical surveyor, an accurate survey and map of the territory intended to be embraced within the limit of such town, showing the courses and distances of the boundaries, and the quantity of land embraced therein. The accuracy of both survey and map shall be verified by the affidavit of the surveyor, written thereon or annexed thereto. They shall also cause to be taken an accurate census of the resident population of such territory, as it may be, on some day not more than four weeks previous to the time of making such application, exhibiting the name of every head of a family and the name of every person a resident, in good faith, of such territory on such day, and the lot, or quarter section, on which she or he resides, which shall be verified by the affidavit of the person taking the same affixed thereto.

Census of population.

Residence defined.

Map and census to be filed.

SEC. 3. Such survey, map and census, when completed and verified as aforesaid, shall be left at the residence or place of business within such Territory, of some person residing therein, and there kept subject to examination, at all reasonable hours by every person interested, for the period of five weeks from the posting of first publication of the notice of such application as hereinafter provided.

Applicants to give notice.

SEC. 4. The intending applicants shall give notice that they will apply on some day specified to the district court for the county in which such territory lies, for an order incorporating such territory as a town by a name to be therein specified, and such notice shall describe the boundaries of such territory by courses and distances, and specify the township or townships in which it lies, and state where such survey, map and census have been left and may be examined as aforesaid.

In newspaper or by posting.

SEC. 5. If there be a newspaper published within such territory, such notice shall be published therein once in each week for six consecutive weeks previous to the time specified for making such application, and if there be no such newspaper, such notice shall be posted in at least three of the most public places in such territory, at least six weeks before the time so specified in such notice.

What application must set forth to be acted upon by court.

SEC. 6. Such application shall be by petition subscribed by the applicants, which shall be not less than five taxpayers and residents of such territory, and shall set forth boundaries, with courses and distances, the quantity of land embraced therein according to such survey, and the resident population therein contained according to such census; such survey, map and census, and the affidavits verifying the same, and an affidavit that they were left and kept subject to examination as provided in section three of this act; also a copy of the notice of application aforesaid, with an affidavit thereon, or affixed thereto, of the publication or posting of the same, as hereinbefore provided, shall be annexed to such petition; otherwise it shall not be acted on by the court;

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and it shall be presented at the time specified in the notice for presenting the same, or as soon thereafter as the applicants can be conveniently heard in respect thereto.

Court may direct re-survey, etc., or deny application.

SEC. 7. The court shall hear all parties interested for or against such application, who shall seasonably appear; may in its discretion adjourn such hearing from time to time; may direct a re-survey to be made, or another census to be taken, by whomsoever it shall appoint, and refer any question for examination and report thereon, and. if the court shall, after such hearing, deny such application, it may, in its discretion, by order, compel the applicants to pay such disbursements, or any part thereof as shall have been incurred by the parties opposing the same.

Court may issue order of incorporation and appoint inspectors.

SEC. 8. If the court, after such hearing, shall be satisfied of the correctness of any such survey, or re-survey, and census, that all the requirements of this act have been complied with, and the lands embraced in such territory, or any part thereof, ought justly to be included in the proposed town, and the interest of the inhabitants will be promoted by such incorporation, and that such territory as ought to be included, contained, at the time the census was first or subsequently taken, the population in number and in proportion to the quantity of land therein required in section one of this act, it shall make an order that such territory, the boundaries of which shall be therein set forth by courses and distances, and which may be enlarged or diminished by such court as justice may require, shall be an incorporated town by the name specified in such application, or by such other name as to the court may seem proper, if the electors thereof shall assent thereto as hereinafter provided; and in such order it shall direct three persons, who shall be taxpayers and residents within such territory, to be named therein, to perform the duties of inspectors of elections as required of them by this act.

After notice given election shall be held.

SEC. 9. Such inspectors shall, without unnecessary delay, give notice of a meeting of the electors of the territory described in such order, to be held within thirty days of the date of such order, at some convenient place therein, to be specified in such notice, for the purpose of determining whether or not such territory shall be an incorporated town. At such meeting, the polls shall be opened at ten o'clock in the forenoon, and shall be kept open until four o'clock in the afternoon of the same day, when they shall be closed; but such inspectors may close the polls at twelve o'clock, noon, for one hour, giving notice thereof. The time of opening and closing the polls shall be specified in the notice of such meeting.

Notice to be published.

SEC. 10. If there be a newspaper printed in such territory, such notice shall be printed therein once in each week for three successive weeks previous to such meeting;

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and, if there be no newspaper so printed, copies of such notice shall be posted in at least three of the most public places in such territory, at least three weeks previous to such meeting.

How election shall be conducted.

SEC. 11. Such inspectors shall preside and act as judges of election at such meeting, and may designate two of their number, or two other persons, to act as clerks thereof. Every qualified elector resident in such territory may vote by ballot, having thereon the word "yes," or the word "no." Vacancies in the board of inspectors shall be filled, and such election shall be conducted, and votes canvassed, according to the statutes regulating general elections in this Territory; and all laws relating to the election of county and township officers, so far as applicable, shall apply to and govern such meeting and the proceedings thereof, and the persons voting thereat.

Negative vote to stop proceedings.

SEC. 12. If a majority of the ballots given at such meeting shall have thereon the word "no," the electors of such territory shall be deemed not to have assented to the incorporation thereof as a town, and no further proceedings shall be had in respect to such incorporation under such application and order; but if a majority of such ballots shall have thereon the word "yes," the inhabitants of such territory shall, from the time of the recording of the order of the court aforesaid, in the office of the recorder of deeds, be deemed a body corporate by the name specified in such order; and the inspectors who shall have presided at such meeting, shall cause a statement of the holding of such meeting to be made, showing the whole number of ballots given thereat, the number having thereon the word "yes," and the number having thereon the word "no," which statement shall be verified by the affidavit of said inspectors written thereon or annexed thereto, to be likewise recorded in the office of the recorder of deeds, as hereinafter provided.

Affirmative vote incorporates.

Report of canvass to be filed.

Papers to be recorded.

SEC. 13. The petition, and all accompanying papers, and all such as have been added under the direction of the court, the order of the court for incorporation, and the verified statement of the inspectors aforesaid, shall be recorded at length by the recorder of deeds within ten days after such election, and be recorded at length in the office of the town clerk, by him, within thirty days after his election and qualification. All necessary and proper expenses and charges attending upon the incorporation, and such records thereof, shall be paid by such town.

Election of town officers.

SEC. 14. Within ten days after the incorporation of such town as aforesaid, the inspectors named in such order of the court shall give notice, in the manner prescribed in section ten of this act, of the time, which shall not be more than thirty days after the date of such notice, and place of meeting of the electors of such town to elect officers thereof; such meeting shall be held in some convenient place therein, to be specified in such notice. The

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polls shall be opened at ten o'clock in the forenoon and shall be kept open until four o'clock in the afternoon of the same day, and the inspectors thereof may close the same for one hour at noon, giving notice thereof. The time of opening and closing the polls shall be specified in the notice of such meeting, but a failure to so specify the time of opening and closing the polls shall not vitiate such election.

How election shall be conducted.

SEC. 15. Such inspectors shall preside at such first election as judges thereof, and shall designate two competent persons to act as clerks, and all the laws of the Territory in relation to the election of county and township officers, and notification of their election shall apply to such first election, so far as the same can be so applied and are consistent with this act: *Provided*, That in case of vacancy in the office of inspector of election, the vacancy may be filled as now provided for in the case of judges of election.

Certificate of canvass filed.

SEC. 16. The inspectors of such first election shall canvass the votes given thereat, and shall make and subscribe a certificate of such canvass, which shall show the whole number of votes given for each officer, the number given for each person voted for, and the office for which each such person shall have been voted for; such certificate shall be recorded in the records of such town and filed in the office of the clerk thereof.

Proceedings to acquire additional territory.

SEC. 17. Additional territory containing the requsite population, proportionate to the size of the same, equal to two hundred to the square mile, may be annexed to any town, upon the application therefor of five inhabitants of such territory, to be preceded by the like proceedings respecting survey, census and notice thereof, and to be heard and in all respects governed by the foregoing provisions properly applied to such subject, except that the order for annexation shall direct a special town election to be called by the town council of such town, as well as an election in such additional territory, by inspectors to be appointed by the court. If a majority of the ballots in either the town or such additional territory have thereon the word "no," the annexation shall be denied and no further action had under such application; but, if a majority of both be in the affirmative, such territory shall be deemed annexed to and incorporated with such town from the time of recording such order of annexation with the recorder of deeds. The inspectors of election in both the town and such added territory shall make a similar statement to that required in section 13, and all proceedings shall be recorded as provided in section 14.

Annual charter and special elections provided for.

SEC. 18. The annual charter election shall be held on the first Monday in May in each year. Ten days' notice thereof shall be given by the clerk by publication in any newspaper regularly published in such town, and, if there

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be no such newspaper, then by posting three written or printed notices thereof, in three public places therein; but the omission thereof shall vitiate no such election. Special elections may be held, when ordered by a majority of the town council, specifying the objects thereof: *Provided,* Ten days' notice, specifying the time and place for holding the same, and the objects thereof be given as above provided. Such notice may, in either case, be given by any five electors, if there be no officer to give the same.

Procedure at such elections, and who shall be inspectors.

SEC. 19. Every election shall be held at a place to be designated by the town council, and the polls shall be opened at ten o'clock in the forenoon, and kept open until four o'clock in the afternoon, when they shall be closed; but the inspectors may close the polls one hour at noon, giving notice thereof. The inspectors of election shall be any three councilmen, or if there be not three present, and consenting to act, at the opening of the polls, the electors present may choose from among themselves such number to fill vacancies as will complete a board of three. The president of the town, if present, shall be chairman of the board of inspectors. In his absence, the board shall designate one of their number to act as chairman. The town clerk shall be clerk of election, but, in his absence, the board may appoint another person clerk of election. Each inspector and clerk shall take the oath or affirmation required of judges and clerks of general elections.

A plurality to elect; qualification of electors.

SEC. 20. All elections shall be by ballot, and all votes for elective officers at any election shall be upon one ballot, and be deposited in one ballot-box; a plurality of votes shall elect, and if two or more persons receive an equal number of votes for the same office the election shall be forthwith determined by lot, in the presence of the inspectors, in such manner as they shall direct. Every qualified elector then actually resident in such town may vote at any election.

Laws governing general elections govern where applicable.

SEC. 21. All town elections shall be, except as hereinbefore provided, conducted and the result canvassed and certified, as in the case of general elections, and, except as modified in this act, every statute relating to holding general elections, canvassing and certifying the result thereof, the challenging of votes and to voting thereat, and every statute prescribing and punishing offences for illegal voting, bribery, fraud, deceit, corruption, official delinquency or other offence, at or concerning elections, which is applicable to general elections is hereby extended and applied to town elections.

Officers to be elected and appointed.

SEC. 22. At the annual charter election in each town, there shall be chosen the following officers, viz: A president, four councilmen, a clerk, a treasurer, a marshal and a constable; also a justice of the peace and a police justice, if required to be elected in such year. All

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other officers shall be appointed by the town council, and at their first meeting, unless they shall otherwise provide after the annual election; and such officer shall be removable by the town council on a vote of a majority of all the councilmen. No person not a resident elector in such town shall be eligible to any office therein.

Officers to file bond and oath.

SEC. 23. Within five days after the election, or appointment, of any town officer, the town clerk shall notify the person so elected thereof, unless he voted at such election; and any person elected, or appointed, to any office named in the preceding section, except justice of the peace and police justice, shall, within ten days after such election, or appointment, or notice thereof, when so required to be given, and before entering on the duties of his office, take and subscribe before the town clerk, or some authorized officer, an oath to support the Constitution of the United States and the organic act of this Territory, and faithfully to discharge the duties of his office to the best of his ability, and file the same, duly certified by the officer administering it, in the office of the town clerk. Such oath shall be administered and certified without fee. The neglect to file such oath, or an official bond, when required, shall be deemed a refusal to serve in, and vacation of such office.

How bonds shall be executed.

SEC. 24. Every bond required of a town officer shall be executed, with sufficient sureties to the town by its name; shall be in a sum to be fixed by the town council, when not otherwise prescribed; shall be approved by the president and filed with the town clerk, within the time prescribed for filing his oath of office, and before entering on the duties of his office, except that the clerk's shall be filed with the treasurer. Whenever the town council shall deem any bond insufficient, they may require an additional bond to be executed and filed in a sum, and within a time not less than ten days, to be fixed by them. No town officer shall be accepted as a surety on any bond, note or other obligation to the town.

Term of office; vacancies, how filled.

SEC. 25. The term of office of all town officers, except justice of the peace and police justice, shall be one year, and until their respective successors are elected, or appointed, and qualified; and all vacancies therein shall be filled for the residue of the unexpired time only. Every such vacancy shall be filled by the city council, except in the office of president, which shall be filled by special election, and if any officer be absent, or temporarily incapacitated from any cause, the council may appoint some person to discharge in the meantime his duties. The council may accept the resignation of any officer.

The president; duties and powers.

SEC. 26. The president shall be, by virtue of his office, a councilman, and preside at all meetings of the council, and have a vote as councilman; sign all ordinances, rules, by-laws, regulations, commissions, licenses and permits,

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adopted or authorized by the council, and all orders drawn on the treasury. He shall maintain peace and good order, see that the ordinances are faithfully obeyed, and, in case of disturbance, riot or other apparent necessity, appoint as many special marshals as he shall deem necessary, who, for the time being, shall possess all the powers and rights of constables.

SEC. 27. The town clerk shall give a bond in form similar to that required of county clerks. It shall be his duty:

Town clerk: duties and powers.

First. To perform the duties of clerk of election, and keep a record of all proceedings at the annual and special elections of the town; to give notice of such elections as required by law, and to notify persons elected or appointed to office thereof.

Second. To transmit to the county clerk, within ten days after election and qualification, a certified statement of the name and term for which elected, of the president, clerk, and treasurer; and to the clerk of the district court immediately after their election and qualification, a like statement of the time and term for which elected of every justice of the peace, police justice, marshal or constable of the town.

Third. To attend all meetings of the town council; to record and sign the proceedings thereof, and all ordinances, rules, by-laws, resolutions and regulations adopted, and to countersign and keep a record of all licenses, commissions and permits granted or authorized by them; and for such purposes to keep the following books:

A minute book, in which shall be recorded in chronological order, all the papers mentioned in section 13; full minutes of all elections, general or special, and the statements of the inspectors thereof; full minutes of all the proceedings of the council; the titles of all ordinances, rules, regulations, and by-laws, with a reference to the book and page where the same may be found.

An ordinance book, in which shall be recorded at length, in chronological order, all ordinances, rules, regulations, and by-laws.

A finance book, in which shall be kept a full and complete record of the finances of the town, showing the receipts, the date, amount and receipt thereof; and the disbursements, with the date, amount, and object for which paid out; and to enter, in either, such other matters as the council may prescribe; and keep such other books as the council may direct.

Fourth. To countersign and cause to be published or posted every ordinance, by-law, or resolution as required by law, and to have proper proof thereof made and filed.

Fifth. To be the custodian of the corporate seal, and to file, as required by law, and to safely keep all records, books, papers, or property belonging to, filed or deposited

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in his office, and deliver the same to his successor when qualified; to permit any person with proper care to examine and copy any of the same, and to make and certify a copy of any thereof when required, on payment of the same fees allowed county clerks therefor.

Sixth. To draw and countersign all orders on the town treasury ordered by the council and none other.

Seventh. To perform all other duties required by law, or by any ordinance or other direction of the town council.

Town treasurer.

SEC. 28. The town treasurer shall give a bond conditioned that he will faithfully discharge the duties of his office, and will faithfully and truly account for, and pay according to law, all moneys which shall come into his hands as treasurer. It shall be his duty to receive all moneys belonging or accruing to the town from any source whatever, or directed by law to be paid to him; to pay the same only on the written order of the president, countersigned by the clerk, and specifying the number thereof, the payee, and the amount and the object for which drawn; to keep just and accurate detailed accounts of all such transactions, showing when, to whom, and for what purpose payments are made, in books provided by the town council, and preserve all vouchers filed in his office; to render an account and settlement of all his official transactions to the council at its last meeting prior to the annual election, and at all other times required by them; to deliver to his successor, when qualified, all books of account, papers and property of his office, and all money in his hands as treasurer; and to perform such other duties as are required by law or the town council. There shall be kept but one fund in the treasury.

Town marshal.

SEC. 29. The town marshal shall give a bond in form similar to that required by law of constables. He shall possess the powers, enjoy the privileges, and be subject to the liabilities conferred and imposed by law on constables, and be taken as included in all writs and papers addressed to constables. It shall be his duty to obey all written orders of the town council; to arrest with or without process, and, with reasonable diligence, to take before the police justice every person found in such town in a state of intoxication, or engaged in any disturbance of the peace, or violating any law of the Territory or ordinance of the town. He may command all persons present in such case to assist him therein, and if any person being so commanded shall refuse or neglect to render such assistance he shall forfeit not exceeding ten dollars. He shall be entitled to the same fees allowed to constables for similar services; for other services rendered the town, such compensation as the council may fix.

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Justice of the peace.

SEC. 30. The justice of the peace shall, within ten days after his election and qualification, take and subscribe the oath of office and file the same with the county clerk, and also execute and file with such clerk a bond in similar form to that required by law of justices of the peace. He shall hold his office for two years from the time of his election, and when a vacancy occurs it shall be filled at the next annual charter election. In case of vacancy a temporary appointment, until filled by election, may be made by the town council. He shall have concurrent jurisdiction and powers throughout the county with other justices of the peace, and whenever there shall be no police justice in such town he shall have exclusive original jurisdiction, as such justice, of all criminal cases arising therein, and of all cases arising under the ordinances and by-laws of such town, and all powers herein given to the police justice, and be taken as included within that designation herein.

Police justice.

SEC. 31. The police justice shall take and file the oath of office as prescribed in the last section. He shall give a bond continued [conditioned] to faithfully discharge all the duties of his office, and pay over according to law all moneys and fees, not his own, collected or received by him. His term of office shall be two years, and until his successor is qualified. Any vacancy shall be filled by a special election for the unexpired term. If temporarily absent or incapacitated, or in case of vacancy, the justice of the peace may perform the duties of his office. He may be removed by the town council on a vote of the president and three other councilmen, for official incapacity or misconduct. He shall hold the police court, and, within the limits of the town, have the jurisdiction of a justice of the peace, and exclusive jurisdiction as such justice of all criminal cases arising under the laws of this Territory therein, unless a change of venue be taken as provided by law; and of all cases whatever arising under the ordinances and by-laws of such town. He shall be entitled to receive a salary to be fixed by the town council and no other compensation. He shall collect all fees now prescribed by law for justices of the peace and shall pay over the same to the treasurer, taking duplicate receipts therefor, one of which he shall file with the town clerk.

President and council peace officers.

SEC. 32. The president and such councilmen shall be officers of the peace and may suppress, in a summary manner, any riotous or disorderly conduct in the streets or public places of the town; and may command the assistance of all persons, under the same penalty for disobedience provided in section 29.

To deliver property to successor.

SEC. 33. Every town officer shall deliver to his successor, when qualified, all the books, records, papers and money in his hands as such officer; and, if a vacancy happen before such successor is appointed or elected

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and qualified, then to the town clerk, who shall demand and receive all such property and deliver the same to the person who shall be selected to fill such vacancy when qualified.

Town council; powers vested therein; rules of government.

SEC. 34. The councilmen of each town shall constitute a board designated "The Town Council of" (name of town) in which shall be vested all the powers of the town not specifically given some other officer. Three councilmen shall constitute a quorum, but a less number may adjourn from time to time. The president shall preside at all meetings when present. In his absence the council may select another person to preside. Regular meetings shall be held at such times as may be prescribed by their by-laws. Special meetings may be called by any two councilmen, in writing, filed with the clerk, who shall thereupon seasonably notify all the councilmen of the time and place thereof, in the manner directed by the by-laws. All meetings shall be open to the public. The council shall keep a record of all its proceedings, shall have power to preserve order at its meetings, compel attendance of councilmen and punish non-attendance; and it shall be judge of the election and qualification of its members. The president and councilmen shall receive no compensation.

No officer to have interest in contracts.

SEC. 35. No councilman or elective town officer shall be in any manner, directly or indirectly, interested in any contract with, or work or labor done for, or material furnished to the town, or to any one on its behalf. In case of a violation of this section, such councilman or officer shall forfeit not less than fifty nor more than five hundred dollars.

How contracts, etc., executed.

SEC. 36. Every contract, conveyance, commission or license, or other written instrument, shall be executed on the part of the town by the president and clerk, sealed with the corporate seal, and in pursuance only of authority therefor from the town council. All ordinances and by-laws shall be signed by the president and countersigned by the clerk; and if any penalty or forfeiture is thereby in any event imposed, shall, before taking effect, be published one week at least in some newspaper printed in the town; and if there be no newspaper, copies thereof shall be posted in at least three public places therein, one week before the same shall take effect. Proof of such publication, by the affidavit of the printer or foreman in the office of such newspaper, or of such posting by the certificate of the town clerk shall be attached to and filed with such ordinance or by-law, and noted on the record thereof, and shall be conclusive evidence of the facts stated. All ordinances shall be suitably entitled, and in this style: "The Town Council of ——— do ordain as follows." All authorized ordinances and by-laws shall have the force of law, and remain in force until repealed.

Ordinances and by-laws to be published.

Style of ordinances; to have force of law.

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Council may

SEC. 37. The town council shall have power by ordinance, by-law, resolution or vote:

First. To regulate the mode of, and establish rules for, their proceedings.

Adopt corporate seal.

Second. To adopt a corporate seal and alter the same at pleasure.

Purchase, hold and sell property.

Third. To receive, purchase and hold for the use of the town any estate, real or personal, and to sell and convey the same.

Regulate offices.

Fourth. To limit and define the duties and powers of officers and agents of the town, fix their compensation and fill vacancies when no other provision is made by law; to call special elections and to designate inspectors of elections.

Incur expenses.

Fifth. To procure the books and records required herein to be kept by town officers, and such other furniture, property, stationery and printing as shall be necessary for town purposes.

Become party to suits.

Sixth. To provide for the prosecution or defense of all actions or proceedings in which the town is interested, and employ counsel therefor.

Appoint officers.

Seventh. To appoint a town attorney, a pound master, one or more sextons or keepers of cemeteries, one or more fire wardens, and one or more street commissioners whenever they deem necessary. Every street commissioner, when by resolution the town council shall require it, shall take and file his oath of office and execute a bond conditioned for the faithful discharge of his duties and the proper application and payment of all moneys that may come into his hands by virtue of his office.

Control public property.

Eighth. To control and protect the public buildings, property and records, and insure the same.

Renumber lots and blocks.

Ninth. To renumber the lots and blocks of the town, or any part thereof, and to cause a revised and consolidated plat of the same to be recorded in the office of the recorder of deeds.

Provide for extinguishment of fires.

Tenth. To establish a fire department; to appoint the officers and members thereof, and prescribe and regulate their duties; to provide protection from fire by the purchase of fire engines and all the necessary apparatus for the extinguishment of fires, and by the erection or construction of pumps, water mains, reservoirs, or other water works; to erect engine houses; to compel the inhabitants of the town to aid in the extinguishment of fires, and to pull down and raze such buildings in the vicinity of fires as shall be directed by them, or any two of them who may be at the fire, for the purpose of preventing its communication to other buildings; to establish fire limits or the limits within which wooden or other combustible buildings shall not be erected; to require the owners or occupants of buildings to provide and keep suitable ladders and fire buckets, which shall be appurtenances to the realty and exempt from seizure and forced

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sale; and after reasonable notice to such owner or occupant, and refusal or neglect by him, to procure and deliver the same to him, and in default of payment therefor, to levy the cost thereof as a special tax upon such real estate, to be assessed and collected as other taxes in such town; to regulate the storage of gunpowder and other dangerous materials; to require the construction of safe places for the deposit of ashes; to regulate the manner of putting up stove pipes, and the construction and cleaning of chimneys; to prevent bonfires and the use of fire-works or fire-arms in the town; to authorize fire wardens at all reasonable times to enter into and examine all dwelling houses, lots, yards, inclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such as may be dangerous to be put in safe condition; and generally to establish such necessary measures for the prevention or extinguishment of fires as may be necessary and proper.

Regulate storage of dangerous materials, flues and stove pipes.

Prevent use of fire-works.

Examine buildings.

Eleventh. To lay out, open, change, widen or extend streets, lanes, alleys, sewers, parks, squares or other public grounds, and to grade, pave, improve, repair, or discontinue the same, or any part thereof; or to establish and open drains, canals, or sewers, or alter, widen or straighten water courses in the manner provided in this act; to make, alter, widen or otherwise improve, keep in repair, vacate or discontinue, sidewalks and crosswalks as provided in this act; to prevent the incumbering of streets, sidewalks, crosswalks and alleys with carriages, carts, wagons, sleighs, sleds, buggies, railway cars, engines, boxes, lumber, firewood or other obstacles or materials; to prevent horse racing or immoderate riding or driving in the streets of the town; to prevent the riding or driving of animals, or the drawing of vehicles of any kind on the sidewalks of the town, or the doing of damage in any way to such sidewalks; and to require the owners or occupants of buildings to remove snow, dirt or rubbish from the sidewalks adjacent thereto; and in default thereof to authorize the removal of the same at the expense of such owner or occupant.

Control streets, sewers, water courses, sidewalks, etc.

Prevent incumbrance of or fast driving on streets.

Remove obstructions.

Twelfth. To restrain the running at large of cattle, horses, mules, sheep, swine, poultry and other animals, and to authorize the distraining, impounding and sale of the same; to establish pounds and regulate and protect the same; to require the owners or drivers of horses, oxen or other animals, attached to vehicles or otherwise, to fasten the same while in the streets or alleys of the town; to prohibit the hitching of horses, teams or animals to any fence, tree or pump, and to prevent injury to the same; to regulate and control the running of engines and cars through the town, and the rate of speed of the same; to prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner when

Restrain animals from running at large, etc.

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License porters, etc.

at large contrary to the ordinance; and license public porters, solicitors or runners, cartmen, hackmen, omnibus drivers and guides, and to establish rules and regulations in regard to their conduct as such, and to prevent any unnecessary noise or disturbance during the arrival or departure of persons in public conveyances.

Regulate markets.

Thirteenth. To establish and regulate markets and restrain sales in the streets.

Control cemetery, parks and walks.

Fourteenth. To purchase and hold cemetery grounds within or without the town limits; enclose, lay out and ornament the same, and to sell and convey lots therein by deed; to establish public parks and walks, enclose, improve and ornament the same, and prevent the incumbering or obstruction thereof; and to provide for and regulate the setting out of shade and ornamental trees in the streets, and in and around the cemeteries and public parks and walks of the town, and for the protection thereof.

License or prevent shows, saloons, etc.

Fifteenth. To prevent or license and regulate the exhibition of caravans, circuses, theatrical performances, or shows of any kind; to prevent or license and regulate the keeping of billiard tables, pigeon-hole tables, and bowling saloons; to suppress and restrain, or license and regulate mountebanks and auctioneers; and in all such cases they may fix the price of such licenses and prescribe the term of its continuance, and may revoke the same at pleasure; but the terms of no such license shall extend beyond the annual election of officers next after the granting thereof.

Protect trees.

Sixteenth. To provide for the planting and protection of shade trees and monuments in said town.

Prohibit and suppress gambling, disorder, vagrancy, etc.

Seventeenth. To prohibit and suppress all kinds of gaming, gambling and all fraudulent devices and practices, and provide for the seizure and destruction of all instruments and devices used for the purpose of gaming; to prevent and suppress fights, riots, noises, disturbances, disorderly assemblages, disorderly conduct, disorderly houses, houses of ill-fame, immoderate drunkenness, drinking, vagrancy, obscenity, lewdness, and prostitution within the limits of the town; to regulate public places of bathing and swimming, or prohibit and prevent such bathing and swimming within the town.

Regulate sale of liquors.

Eighteenth. To exercise such powers in respect to licensing and regulating the sale of malt, ardent or intoxicating liquors as are conferred by the general statutes in respect thereto.

Establish a watch house, etc.

Nineteenth. To purchase, build, or lease and maintain and regulate a watch house, or place for the confinement of offenders against the ordinances and by-laws, and for the temporary detention of suspected persons.

Ex-officio board of health.

Twentieth. The members of the council shall be *ex-officio* a board of health, and shall have all the powers of such boards under the general laws of the Territory;

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to provide hospitals and regulate the burial of the dead and the return of bills of mortality; to declare what are nuisances, and to prevent or abate the same; to require the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house, building, or place, to remove or abate the same, or to cleanse it as may be deemed necessary for the public health; to direct the location and management of slaughter houses subject to the provisions of the general statutes, and to prevent the erection, use or occupation of the same except as authorized by them; to prevent persons from bringing, depositing or leaving within the town any putrid carcass or other unwholesome substance; to require the owners or occupants of lands to remove dead animals, stagnant water or other unwholesome substances from their premises, and to provide for the cleansing and removal of obstructions from any river, stream, slough or water course within the limits of the town, and to prevent the obstruction or retarding of the flow of water therein, or the putting of anything into the same which may be prejudicial to the health of the town.

With plenary powers.

Twenty-first. To make and regulate the use of public wells, cisterns and reservoirs.

May make wells and cisterns.

Twenty-second. To erect lamp posts and lamps, and provide for lighting any portion of the town or streets thereof by gas or otherwise.

Provide lights.

Twenty-third. To establish harbor and dock limits, and to regulate the location and manner of construction and use of all piers, levees, wharves and boat houses on any navigable waters, and fix rates of wharfage.

Control harbor.

Twenty-fourth. To appoint policemen, night watchmen, and superintendent of police, and prescribe their duties and make by-laws for their government.

Appoint policemen.

Twenty-fifth. To levy and provide for the collection of taxes and assessments, audit claims and demands against the town, and direct orders to issue therefor in the manner prescribed in this act; to refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; to authorize bonds of the town to be issued in the cases provided by law, and generally to manage the financial concerns of the town; and they shall cause to be prepared and read at each annual charter election a true, detailed and itemized statement by them of the finances of the town, showing the amount in the treasury at the commencement of the year, when and from what sources all moneys paid into the treasury during the preceding year were derived, and the whole amount thereof, and when, to whom, and for what purpose all money paid from the treasury during

Manage financial affairs of the town.

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the same period was paid, and the whole amount thereof, with the balance then in the treasury; which statement shall be recorded in the minute book, and filed and preserved in the clerk's office.

Maintain good order.

Twenty-sixth. To ordain and establish all such ordinances and by-laws for the government and good order of the town, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of trade and commerce, and the promotion of health, not inconsistent with the Constitution and laws of the United States, or the organic act or laws of this Territory, as they shall deem expedient; and to determine and establish by ordinance the mode of procedure, and what it shall be sufficient to allege and prove in order to make out a *prima facie* case of violation of any ordinance.

Impose penalties for violations.

Twenty-seventh. To prescribe penalties for the violation of any ordinance or by-laws, to be not less than one dollar nor more than two hundred dollars in any case, besides the costs of suit in all cases; and, in default of payment, to provide for committing the person convicted to the watch house, or place of confinement in the town, or to the county jail, until payment be made, but not to exceed ninety days in all; and to modify, amend or repeal any ordinance, resolution, by-law, or other former determination of the council.

Auditing of accounts.

SEC. 38. No account or demand against the town shall be paid until it has been audited and allowed, and an order drawn on the treasurer therefor. Every such account shall be made out in items and verified by affidavit endorsed, or annexed, that the same is just and correct, and no part thereof paid. After auditing, the council shall cause to be endorsed by the clerk, over his hand, on each account the words "allowed" or "disallowed" as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the council shall show to whom and for what purpose every such account was allowed, and the amount. Every such account or demand allowed, in whole or in part, shall, with the affidavit thereto, be filed by the clerk, and those of each year consecutively numbered, and have endorsed the number of the order on the treasurer issued in payment; and the clerk shall take a receipt thereon for such order.

Limitation.

SEC. 39. No town or any officer thereof, shall have power to issue any time or negotiable order, or borrow money, except in the manner and for the purposes expressly declared by statute.

Proceedings to make public improvements.

SEC. 40. Whenever the town council shall intend to lay out and open, change, widen or extend any street, lane, alley, public grounds, square, or other place, or to construct and open, alter, enlarge or extend drains,

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canals or sewers, or alter, widen or straighten water courses therein, or take grounds for the use and improvement of a harbor, and [when] it shall be necessary to take private property therefor, they shall cause an accurate survey and plat thereof to be made and filed with the clerk; and they may purchase or take by donation such grounds as shall be needed, by agreement with the owners, and take from them conveyances thereof to the town for such use or in fee; but otherwise, they shall by resolution declare their purpose to take the same, and therein describe by metes and bounds the location of the proposed improvement and the land proposed to be taken therefor, defining separately each parcel and the amount thereof by a distinct owner, mentioning the names of the owners and occupants so far as known, and therein fix a day, hour and place when and where they will apply to the probate judge for a jury to condemn and appraise the same.

Conveyances; how obtained.

Proceedings to condemn.

SEC. 41. They shall thereupon cause to be made by the clerk a notice of the adoption of such resolution, embracing a copy thereof, and notifying all parties interested that the council will, at the time and place named apply to the probate judge for the appointment of a jury to condemn and appraise such land. A copy of such notice shall be served by any constable on the owner of each such parcel of land to be taken, if known and resident within the county, such service to be made in the manner prescribed for serving a summons in an action in the probate court, and the return of the officer shall be conclusive evidence of the facts stated therein. If the notice can not be so given as to all the parcels, then the same shall be also published once in each week, for three successive weeks, in a newspaper published in such town or county; and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served and such publication made for three weeks, complete at least one week before the time fixed therein for such application. If any person so served with notice be a minor or of unsound mind, the judge before proceeding, shall, on the day fixed for hearing such application, appoint for him a guardian for the purpose of such proceeding, who shall give security to the satisfaction of the magistrate, and act for such ward.

Notice of application to probate judge.

Copy to be served.

Or published.

Hearing of the application.

SEC. 42. At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and such survey, and by proof of service of the notice, as provided in the last section, shall be filed with the judge, who shall thereupon make a list of twenty-four competent jurors not interested; but residents of the town shall not be disqualified by reason of such residence. He shall hear and decide any challenge for cause and favor made to any one, and, if sustained, shall replace

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his name with an unobjectionable juror until the list shall be perfected. Thereupon, under the direction of such judge, each party, the town council by its representatives on the one side, and the owners of land and their agents present on the other, shall challenge six names, one at a time, alternately, the town council beginning.

Selecting the jury to appraise damages.

To the twelve jurors remaining such judge shall issue a precept, requiring them at an hour on a day named, not more than ten nor less than three days thereafter, to appear before him to be sworn and serve as a jury to view lands, and appraise damages, and at the same time shall publicly adjourn the proceedings to the time and place so named; such precept shall be served by any constable, at least one day before such appointed time, by reading the same to each such juror, or by leaving a copy at his usual place of abode in the presence of a member of his family.

Oath administered.

SEC. 43. The jurors summoned shall appear at the time and place named; and if any be excused by the judge, or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead, until twelve be obtained; the judge shall then administer to them an oath that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and, if found necessary, the damage occasioned thereby, and faithfully discharge their duties as jurors according to law.

Verdict of the jury to specify damages.

SEC. 44. Under the direction of such judge the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any of the parties; and for such purpose, such judge shall possess the same powers as a court in session with a jury, and if there be necessity, may adjourn the same from day to day. The jury shall render a separate, unanimous verdict, in writing, signed by them, in which they shall find whether it be necessary to take such lands, or any part thereof for such purposes, describing such as they deem necessary to be taken; and if any be found necessary to be taken, then a verdict or appraisement of damages, specifying therein the damages of each owner, and the value of the land taken from each, and the damage otherwise sustained by each by reason of the taking thereof, in estimating which they shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvement; and a majority of such jury may render such verdict or appraisement of damage, and shall sign the same. Any technical error in such verdict may be immediately corrected with the ascent of the jury, and they shall thereupon be discharged, and their verdict filed by the judge. In case the jury shall fail to find a verdict, another jury shall be selected, summoned, sworn, and proceed in the same manner.

Error may be corrected.

Other jury.

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Land owner may appeal.

SEC. 45. Within ten days after such verdict any land owner whose land has been found necessary to be taken, may appeal from the award of damages to him in such verdict to the district court, and the town may likewise appeal from the award of damages to any owner, by filing with such judge a notice of appeal, specifying whether the appeal is from the whole award to him, or a part, and if a part what part, and therewith an undertaking with two sufficient sureties, to be approved by the judge, to pay all costs that may be awarded against such appellant on the appeal, and paying the judge for his return thereof. Any party not so appealing shall be forever concluded by such verdict or appraisment. Upon an appeal being taken, the judge shall transmit to the clerk of the district court, within ten days, the notice of appeal and undertaking, and thereto annexed a copy of all the papers and proceedings before him with his certificate thereof. He shall, after the time for appealing has expired, file with the town clerk, annexed together, all the original papers, including the verdict, with a certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify, and the clerk shall record all such proceedings.

Where appeal is not taken.

How appeal may be tried.

SEC. 46. Upon filing such transcript in the district court, the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff and the town as defendant, and be subject to change of venue and appeal to the supreme court. The appeal shall be tried by a jury, unless waived; and costs shall be awarded against the appellant if a more favorable verdict be not obtained, otherwise against the respondent. Upon entry of judgment, the clerk of the district court shall transmit a certified copy thereof to the town clerk.

Owner must be paid award.

SEC. 47. If the verdict of the jury first called find it necessary to take such land, or any part thereof, the town council may, upon return thereof to the clerk, enact an ordinance according thereto for laying out, changing, widening or extending and opening any such street, lane, alley, public ground, square or other public place, or constructing and opening, altering, enlarging or extending any such drains, canals or sewers, or altering, widening or straightening any such water course, or for the use and improvement of a harbor, but shall not enter upon any such land therefor, until the owner be paid in full the damages awarded him by such verdict, or appraisement, or such damages be set aside for him in the hands of the treasurer, and an order therefor lawfully executed to him be deposited with the clerk, to permanently remain subject to his order. At any time before causing any such land to be actually taken, or put to public use, and before the rendition of a judgment in the

Proceedings may be discontinued.

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district court for damages, the town council may discontinue all proceedings theretofore taken, and the town shall, in such event, be liable for the costs only. All the costs of every such proceeding shall be paid by the town, except when they recover costs in the district court.

Property benefitted may be assessed the damages.

SEC. 48. For the purpose of payment of the expenses, including all damages and costs incurred by the taking of private property, and of making any improvement mentioned in the preceding section, the town council may, by resolution, levy and assess the whole or any part, not less than half of such expenses, as a tax upon such property as they shall determine is specifically benefitted thereby, making therein a list thereof, in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution, signed by the president and clerk, shall be published once in each week for two weeks, in a newspaper published regularly in such town, or if there be no such newspaper, three copies thereof shall be conspicuously posted by the clerk, and a notice therewith that, at a certain time therein stated, the council will meet at their regular place of meeting and hear all objections which may be made to such assessment, or any part thereof. At the time so fixed the council shall meet and hear all such objections, and for that purpose may adjourn from day to day, and may, by resolution, modify such assessment in whole or in part. At any time before the first day of August thereafter, any party liable may pay any such tax to the town treasurer. On such first day of August, if any such tax remains unpaid, the clerk shall certify a copy of such resolution to the county clerk, with a certificate of the town treasurer annexed, showing what taxes thereby levied remain unpaid; and the county clerk shall put the same with five per centum additional, upon the tax roll, in addition to and as part of all other town taxes therein levied on such land, to be collected therewith.

Resolution to be published.

When tax must be paid.

Forfeiture added.

Street or alley may be closed.

SEC. 49. Upon the petition in writing of all owners of lots or lands on any street or alley in such town, and not otherwise, the town council may discontinue such street or alley or any part thereof. At least one week before acting on such petition, the council shall cause a written or printed notice to be posted in three public places in such town, stating when the petition will be acted on, and what street or alley, or part thereof, is proposed to be vacated.

Provisions for grading, paving and paying for same.

SEC. 50. The town council may cause any street, or any part of any street, not less than sixteen rods in length, to be graded, paved, macadamized, or otherwise improved, or any sidewalk or gutter to be built, upon a petition therefor in writing signed by at least a majority of all the owners of real estate bounding both sides, and

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the owners of at least one-half the frontage of such street, or part of street to be improved; or order any sidewalk or gutter on one side of the street to be built on the petition of a majority of such owners, and of the owners of at least one-half the frontage on such side; and may order any sidewalk or gutter, previously built, to be put in repair when necessary without petition. For the purpose of so improving any street, or building, or repairing any sidewalk or gutter, the town council may levy, and cause to be collected, upon the lots, tracts or parcels of ground on such street, or part of street improved, or on the side thereof where such sidewalk or gutter is built, and upon the owners thereof, a tax sufficient to pay the expenses of constructing such improvement as ordered opposite such property, to the center of the street, or such proportion thereof, not less than half, as they shall deem justly assessable to such property, if they shall think the whole ought not to be assessed, in which case the remainder shall be paid from the town treasury. Every such tax for repairs shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost, or proportion thereof assessed to such property, the town council may levy an additional tax thereon to make good such deficiency.

Taxes; how paid.

SEC. 51. Whenever the town council shall levy any such tax as specified in the preceding section, they shall make out and deliver to a street commissioner of such town a list of persons, and a description of the property taxed, together with a warrant for the collection and expenditure of said tax; and thereupon the street commissioner shall notify the persons named in such tax list by publishing a notice two weeks in some newspaper published in said town, if there be one, or by posting notices in three or more places in such town, and shall specify in such notice at time or times, not less than twenty days nor more than forty days from the date thereof, when the persons charged with taxes in such list may pay their taxes in labor, material or money; and the persons charged with such tax may, at such time and place as may be required by the said street commissioner, pay their taxes in labor or material: *Provided,* The labor and material offered in payment of such taxes are such as may be required by the said street commissioner, and done and furnished to his satisfaction, and at the market rates then prevailing. The street commissioner shall be provided with a memorandum book by the town clerk in which he shall keep an account of all moneys coming into his hands by virtue of his office, the amount received and disbursed by him, the name of every person from whom money or labor is due, the amount paid in money and labor, and an account of all expenditures by him

Street commissioner to keep account.

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made as street commissioner. The book containing the accounts so kept shall at all times, when required, be furnished for the inspection of the town council; and ten days before the expiration of his term of office shall be handed to the town clerk to be filed in his office for the inspection of taxpayers in his district.

Delinquent tax list.

SEC. 52. At the expiration of forty days from the date of said notice given by the said street commissioner, he shall make out and deliver to the county clerk [of the county] in which such town is situated a certified list of the lots, pieces or tracts of land in said town upon which any such tax remains unpaid, with the amount of such delinquent tax upon each of said lots or parcels of land; and if such list be returned to said county clerk before the completion of the tax roll of said county for the same year, the said clerk shall add the said delinquent taxes to said tax roll opposite the description of the proper lots, pieces or parcels of land therein, and the said delinquent taxes with and in the same manner as the county taxes. If such list should be returned to the county clerk after the completion of the tax roll, and before the county treasurer's return of delinquent taxes, he shall deliver the list to the said treasurer, who shall collect the same with other taxes in such town, and add what remains uncollected of said taxes to his delinquent taxes, and shall collect the same, or sell the lots for such delinquent taxes; and all proceedings in relation thereto shall be in all respects as in the case of other lands sold for delinquent taxes. Every county treasurer who shall collect or receive any moneys on account of such delinquent taxes shall pay the same to the treasurer of the proper town and take duplicate receipts therefor, and file one of said receipts with the county clerk.

Lots may be sold.

Where delinquents have sold.

SEC. 53. Whenever any lot, tract or parcel of land shall have been returned delinquent for any such tax as hereinbefore provided, the town council may cause the work to be done at the expense of the town, to be reimbursed by such tax when collected.

Street commissioner may repair sidewalk or gutter at expense of property.

SEC. 54. Whenever the public convenience or safety shall require any sidewalk or gutter, in case of injury or defect, to be immediately repaired, and the cost of repairs will not exceed ten dollars, the street commissioner may give written notice to the parties subject to tax for the repairs thereof, if known and residing in said town, and if unknown or not residents thereof, then may post written notices in three public places in such town, that unless such sidewalk or gutter, therein to be specified, be repaired to the satisfaction of the street commissioner within three days thereafter he will repair the same at the expense of the property; and if the same in such time be not repaired, such commissioner shall so

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repair, and return the tax as a delinquent tax on such property, and the same shall be collected as other delinquent taxes hereinbefore provided.

Town streets not to be controlled by county officers.

SEC. 55. No part of the streets or highways of any town shall be in any road district established by the county commissioners, nor be under the control of county officers, nor shall the county be liable for any damages occasioned by any insufficiency or want of repair thereof; nor shall any highway taxes, nor any tax to pay any judgment recovered against a county for damages arising for any insufficiency or want of repairs of a highway outside of any such town be levied in any town by any county, but all bridges in such town shall be built, maintained and repaired by the county in which the same is situated. No overseer of highways shall be elected in or for any such town, but the poll tax shall be collected as hereinafter provided, and shall be expended [on] the streets, highways and public places governed by the town council and officers of their appointment.

Poll tax; how expended.

Polls to be listed.

SEC. 56. On or before the twentieth day of May in each year the clerk shall make a list of the names of all male persons over the age of twenty-one years, with the amount of poll tax, which shall be the same as in counties, and submit the same to the town council for correction. When such list is correctly made out, and on or before the first day of June in each year, the council shall by order, direct the same to be delivered forthwith to the treasurer for collection. The treasurer shall forthwith proceed to the collection of such tax, and shall demand the same once of each person named in the list, and if any person neglects to pay the same for ten days thereafter, then such treasurer shall, in the name of the town, sue for and collect such tax with fifty per centum damages on the same, with costs of suit, before the police justice of such town; and in default of payment of such judgment, execution shall issue against the defendent as in case of tort; and the first process in such action shall be by civil warrant; but the town council may exempt from the payment of such tax all persons belonging to any fire company, or any person who is poor and not able bodied, when they deem it proper to do so, and the treasurer, while the said list is in his hands for collection, may put upon the same the names of all such persons liable to such tax as have been omitted therefrom, who shall be liable the same as if their names were originally placed on such list.

Collection of poll tax.

Exemptions, and corrections of list.

Council to expend taxes.

SEC. 57. Such money when collected shall be expended in the improvement of the streets, the making and improvement of sidewalks, and the setting out of shade and ornamental trees in such towns; and if such poll tax shall, in the opinion of the council, be insufficient for such purpose, they may levy and cause to be collected a sufficient additional sum therefor on the taxable

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property of such town in the manner hereinafter provided; and all such taxes shall be expended under the direction of the town council. The council may also expend and lay out on the highways, or any of them leading into such town, not to exceed one-third of the tax so assessed in any one year.

Town tax limited to two per cent.

SEC. 58. The town council shall, on or before the fifteenth day of October in each year, by resolution, determine the amount of corporation taxes to be levied and assessed on the taxable property in such town for the current year, which shall not exceed in any one year two per centum of the assessed valuation of such property. Before levying any tax for any specific purpose, the council may, in their discretion, submit the question of levying the same to the town electors at any special or general election, and in such manner as they may prescribe; when so submitted they shall be bound by the vote thereon. On or before the first day of November in each year, the town clerk shall deliver to the county clerk a copy of all such resolutions, certified under his hand and the corporate seal.

Levy may be voted upon.

Assessment and collection of taxes.

SEC. 59. Such town taxes shall be assessed upon all the real and personal property liable therefor in a separate column in the tax roll of the county, next thereafter issued and delivered to the treasurer for collection; and such taxes shall be collected in the manner provided by law for the collection of other taxes in such roll, and when so collected shall be paid to the town treasurer or other person entitled to receive the same. The orders of a town shall be received and paid over by the county treasurer for all town taxes on his roll. The county treasurer shall be entitled to retain two per centum on all such moneys collected by him, and the same shall be in lieu of all compensation for services rendered by him in the collection and paying over of such taxes. Any officer who shall neglect or refuse, on demand, to pay over any such taxes, or any other taxes or special assessments levied by such town, when so collected by him, shall be liable on his official bond to an action therefor, with twenty-five per centum damages to be added thereto.

Compensation of treasurer.

Penalty for refusal to pay over.

Fines, penalties; how collected.

SEC. 60. All fines, forfeitures and penalties, imposed by any ordinance, resolution or by-laws of the town council may be collected in an action, in the name of the town, before the police justice or any court of competent jurisdiction, to be commenced by warrant, and prosecuted in the same manner as actions of tort before justices of the peace; but the marshal or constable may arrest the offender in all cases without warrant when he knows of any such violation. The affidavit for such warrant shall be the complaint, and be sufficient if it allege that the defendent is indebted to the plaintiff in the amount of such fine, penalty or forfeiture sued for, claiming the highest sum thereof according to the pro-

Arrest for fines and penalties.

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visions of such ordinance, resolution or by-law, specifying the same by section, chapter, title or otherwise with sufficient plainness to identify the same, with a demand for judgment for the amount thereof.

Penalties may be inflicted.

Sec. 61. Judgment shall be given, if for the plaintiff, for the amount of fine, penalty of forfeiture fixed by such ordinance, resolution or by-law, or such part thereof, if a discretion be given, as the court shall deem proportionate to the offence, together with the costs of suit; and shall in all cases further adjudge and order that in default of payment thereof, the defendant be committed to the common jail of such county for such time, not exceeding ninety days, as the court shall think fit. If such payment be not forthwith made, the judge or justice, as the case may be, shall make out a commitment, stating the amount of judgment and costs, and the time for which committed. Every person so committed shall be received and committed to prison by the keeper of the county jail, and kept at the expense of the county until the expiration of the time; but he shall be released at the order of the judge or justice on payment to him of such fine and costs, or by due course of law.

Appeals may be taken.

Sec. 62. Appeals may be taken to the district court in the same manner as from judgments in civil actions by justices of the peace; if taken by the defendant, he shall, as a part thereof, execute a bond to the town, with such surety to be approved by such judge or justice, conditioned that if judgment be affirmed in whole or in part, he will pay the same and all costs and damages awarded against him on such appeal; and in case such judgment shall be affirmed, in whole or in part, execution may issue against both defendant and his surety; upon perfection of such appeal the defendant shall be discharged from custody.

Fines; how disposed of.

Sec. 63. All fines, forfeitures and penalties recovered for the violation of any ordinance, rule, regulation, resolution or by-law of any such town, and all moneys paid for licenses and permits shall be paid into the town treasury for the use of such town. The police justice, and justice of the peace, when acting as such, shall report and pay into the treasury, quarterly, all moneys collected by him, belonging to such town, which report shall be verified by his affidavit, and filed in the office of the town clerk, and he shall be entitled to duplicate receipts from the treasurer for such moneys, one of which he shall file with the town clerk.

Moneys to be paid over quarterly.

Work to be contracted to lowest bidder.

Sec. 64. All contracts for the performance of any work in any such town, exceeding fifty dollars, shall be let by the town council to the lowest bidder in such manner as they may prescribe.

Repeal must be expressed.

Sec. 65. No law contravening the provisions of this act shall be considered as repealing or modifying the same, unless such purpose be expressly set forth in such law.

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Judgments to be met by taxes.

SEC. 66. Whenever a final judgment shall be obtained against any such town, the judgment creditor, his assigns or attorney may file with the town clerk a certified transcript of such judgment, or of the docket thereof, together with his affidavit, showing the amount due thereon, and all payments, if any, and that the judgment has not been appealed from or removed to any other court, or if so appealed or removed has been affirmed; and thereupon the town clerk shall assess the amount thereof with interest from the date of its rendition to the time when the warrant for the collection will expire, upon the taxable property of such town, placing the same on a separate column on the next tax roll, and the same shall be collected and returned as town taxes are, and paid to the party entitled thereto.

APPROVED February 17, 1881.

COUNTY COMMISSIONERS.

AN ACT concerning the term of office of county commissioners.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That sections 343 and 344 of the fifth division of the Revised Statutes be, and the same are hereby, amended so as to read:

Of what board consists.

SECTION 343. The board of county commissioners of each of the several counties of this Territory shall consist of three qualified electors, any two of whom shall be competent to exercise the powers conferred upon the board of county commissioners of their respective counties, who shall be elected according to law, and shall hold office for the term of four years, and until their successors are elected and qualified.

Term and succession regulated.

SEC. 344. There shall be elected in each of said counties, at the general election to be held in the year 1882, one county commissioner; at the general election to be held on every fourth year thereafter, two county commissioners; at the general election to be held in the year 1884, and on every fourth year thereafter, one county commissioner, who shall hold office as provided in the preceding section. The persons now holding the office of county commissioner in said counties shall proceed with the discharge of the duties of the said offices and shall hold the same until the close of the terms for which they have been elected or appointed.

APPROVED February 19, 1881.

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COUNTY COMMISSIONERS.

AN ACT in relation to sessions of county commissioners.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section repealed.

SECTION 1. That section 345, of the fifth division of the Revised Statutes, be and the same is hereby repealed.

APPROVED February 19, 1881.

COUNTY OFFICERS—OFFICIAL BONDS.

AN ACT concerning the official bonds of county officers.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Requisites to sureties.

SECTION 1. In all cases in which official bonds are required to be given by the county officers of the several counties of this Territory, the sureties thereon must be *bona fide* residents and taxpayers of the county in which such officers are elected or appointed.

Additional bonds or security may be required of county officers.

SEC. 2. All county officers who are required by law to give official bonds may be required by the board of county commissioners of the county in which they have been elected or appointed, to give additional security or new bonds whenever the security of the bond previously given has become insufficient or inadequate by the insolvency, death or removal of the sureties, or any of them, or when, from any cause, such bond shall be deemed insufficient; and any officer failing to give additional security, or a new bond, as provided in this act, shall be deemed to have vacated his office.

Failure deemed to vacate.

Semi-annual examination to be made.

SEC. 3. It shall be the duty of the board of county commissioners of each county, at their regular meetings on the first Monday in the months of March and September in each year, to examine and inquire into the sufficiency of the official bonds of all the other county officers of their respective counties; and, whenever they shall find the official bond of any such officer insufficient, they shall require a new and sufficient bond to be given in such sum as they may deem necessary, not exceeding in amount the security now provided by law.

Judge of district court to examine bonds of commissioners.

SEC. 4. It shall be the duty of the judges of the district courts on the first day of each term thereof held in the several counties of this Territory, in open court, to examine and inquire into the sufficiency of the official bonds of the county commissioners of the county in which such court shall be held; and whenever the said court shall find the official bond of any county commissioner insufficient he shall order a new bond to be given.

Record of examination to be made.

SEC. 5. The said boards of county commissioners, and the said courts, at the times hereinbefore provided for the making of such examination, shall cause an entry

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to be made upon the records of their said boards, or courts, respectively, showing that an examination and inquiry into the sufficiency of the official bonds within their cognizance has been made, and that they are deemed sufficient, or insufficient, as the facts may justify.

Evidence may be offered as to sufficiency.

SEC. 6. Any person having any interest in the sufficiency of the official bond of any of the officers hereinbefore referred to may appear before the board of county commissioners, or court, as the case may be, at the time of the examination of official bonds, and make suggestions as to the sufficiency of any such bond, and offer evidence tending to show the same to be insufficient, and any officer whose bond is being examined may also appear and introduce evidence tending to show the sufficiency of his official bond.

Officer shall be cited to show cause.

SEC. 7. If, upon such examination, the said boards of county commissioners or courts, as the case may be, is of opinion that the bond of any officer is for any cause insufficient, the said board or court shall order such officer to appear before them, or him, on a day to be named in the order, and show cause why he should not be required to give a new bond with sufficient sureties.

Failure to give bond vacates office.

SEC. 8. If such officer fails to appear or satisfy the said board of county commissioners, or court, that his official bond is sufficient, said board or court shall require him within a reasonable time, not exceeding twenty days, to give a new bond with sufficient sureties to be approved by the said board or court; and if such bond be not given within the time named, the said officer shall be deemed to have vacated his office, and the vacancy so occurring shall be filled in the manner provided by law.

Vacancy; how filled.

Procedure of surety to obtain release.

SEC. 9. When a surety upon the official bond of any county officer, or the heir, executor or administrator of such surety, desires to be released from such bond, he may give notice in writing to the officer upon whose bond he is surety, that he desires to be so released, and that such officer give a new bond with sufficient sureties within twenty days after receiving such notice, and may, within five days after the service of such notice, deliver a copy of the same with an affidavit showing the time and manner of service to the court or board of county commissioners authorized by this act to examine into the sufficiency of the bond of such officer, and if such officer shall not, within twenty days after receiving such notice, or such further time, not exceeding thirty days, as the said court or board shall allow, give a new bond with sufficient security, his office shall become vacant, and the vacancy shall be filled in the manner provided by law.

Officer must give new bond.

Liability of sureties defined.

SEC. 10. If a new bond shall be given by any officer, as provided in the foregoing sections of this act, then the former sureties of such officer shall be released and discharged from all liabilities incurred by such officer from and after the date of the approval of such new bond by

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the said board of county commissioners or court, as the case may be, and the sureties upon the new bond so given shall be liable for the acts of such officer from and after the approval of the same as aforesaid.

Sureties liable for previous acts.

SEC. 11. The provisions of this act shall not be so construed as to release the sureties of any county officer from any liability incurred previous to the filing and approval of a new bond as hereinbefore provided.

APPROVED February 23, 1881.

COUNTY SINKING FUNDS.

AN ACT concerning county sinking funds and certain taxes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Unmatured bonds may be bought.

SECTION 1. It shall be the duty of the county treasurer of any county in this Territory, at any time before the coupon bonds of the county shall become redeemable, at the pleasure of such county, and when there is a sum exceeding five hundred dollars in any sinking fund constituted under authority of law for the redemption of said bonds, over and above the accrued interest on such bonds still outstanding, and from time to time thereafter when it shall so occur, to cause a notice to be published in a newspaper of this Territory, that he will, within thirty days from the date of such notice, purchase said amount of said bonds in the order in which the same shall be offered for sale. Such notice shall also be sent by mail to the owners or holders of such bonds, if the county treasurer has notice or knowledge of the address of such owners or holders. And if, at the expiration of the said thirty days, the owners or holders shall fail to offer for sale any of said bonds, or if the amount of said bonds so offered for sale shall be less than the sum of money in said sinking fund, it shall be the duty of the county treasurer to transfer the surplus moneys in said sinking fund to the general and warrant fund.

Notice to owners.

Transfer of surplus money.

Order of purchase.

SEC. 2. It shall be the duty of the county treasurer of such county to apply said moneys in said sinking fund to the purchase of the said bonds which shall be offered for sale by the owners or holders thereof, within the times mentioned in the notice prescribed in the preceding section, and pay therefor the amount of the principal and interest thereof. If the moneys in said sinking fund shall be insufficient to pay for all of said bonds which shall be so offered for sale, it shall be the duty of the county treasurer to use said moneys in buying the said bonds in the order in which they shall have been offered for sale; and the moneys which shall

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thereafter accumulate in said sinking fund shall be applied to the purchase of the remainder of said bonds, unless the owners or holders shall withdraw their offer to sell the same.

Transfer of moneys.

SEC. 3. It shall be the duty of the board of county commissioners of every county in this Territory to transfer to the several funds thereof all moneys which have been, or may be, received by the treasurer thereof in partial payment of any license or tax.

SEC. 4. When such coupon bonds shall become redeemable at the pleasure of the county, it shall be the duty of the county treasurer to transfer to said sinking fund, from the general or warrant fund, the moneys that shall have been transferred from said sinking fund to the general or warrant fund under provisions of this act.

[NOTE BY THE SECRETARY.—The foregoing act, having been presented to the governor of Montana Territory, on the 18th day of February, 1881, for approval, and not having been returned by him to that house of the Legislative Assembly in which it originated, within the time prescribed by Section 1842, Chapter I, Title XXIII, Revised Statutes of the United States, has become a law without his approval.]

CRIMINAL CASES—JURISDICTION.

AN ACT concerning the jurisdiction of courts in criminal cases.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 6 of the third division of the Revised Statutes, be, and the same is hereby, amended to read as follows:

District courts.

SECTION 6. The district courts shall have exclusive jurisdiction in all cases of felony, and of all offences not cognizable in the probate courts, or courts of justices of the peace, and jurisdiction concurrent with said courts of all other offences. The probate courts shall have jurisdiction of all misdemeanors committed in their respective counties when the punishment therefor does not exceed a fine of five hundred dollars, or imprisonment for six months in the county jail, or both such fine and imprisonment. Justices of the peace shall have jurisdiction of all misdemeanors committed in the county in which they shall be qualified to act when the punishment therefor does not exceed a fine of one hundred dollars, or imprisonment for three months in the county jail, or both such fine and imprisonment; but no justice of the peace, or other magistrate, shall acquire jurisdiction over the person of any defendant to finally try such defendant by reason of any complaint made, or by such defendant procured to be made, against himself.

Probate courts.

Justices courts.

Limitation.

APPROVED February 16, 1881.

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CRIMINAL CASES—NEW TRIALS.

AN ACT concerning new trials in criminal cases.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That sections 353, 354 and 355 of the third division of the Revised Statutes be, and the same are hereby, amended to read as follows:

SECTION 353. A new trial shall be granted:

When new trial shall be granted.

First. When the jury has received any evidence, papers or documents, not authorized by the court.

Second. When the jury has been separated without leave of the court, or have been guilty of any misconduct tending to prevent a fair and due consideration of the case.

Third. When the verdict has been decided by means other than a fair expression of opinion on the part of all the jurors.

Fourth. When there is newly discovered evidence which could not, with reasonable diligence, have been discovered and produced at the trial by the party making the application.

Fifth. When the court has misdirected the jury in a material matter of law.

Sixth. When the court has either admitted illegal, or excluded legal, evidence; or there has been any abuse of discretion by which the party was prevented from having a fair trial.

Seventh. When the verdict is contrary to law or the evidence.

When notice for new trial must be filed.

SEC. 354. The application for a new trial shall be made upon motion, and, if based upon any of the grounds mentioned in the first four subdivisions of the preceding section, written notice of such motion must be filed within thirty days after the discovery of the facts upon which the party relies in support of his motion; in all other cases notice of motion must be filed within ten days after the rendition of the verdict.

Applications; how based and made.

SEC. 355. Applications for a new trial, if made for any of the causes mentioned in the first four subdivisions of section 353 of this division, shall be based upon affidavits, which must be filed at the same time as the notice of motion, or within such further time as may be allowed by the court or judge; in all other cases the application must be made either upon a bill of exceptions, or upon the minutes of the court; and the notice of motion must state particularly the error upon which the party making the application relies. An application for a new trial shall be heard on the second day after notice filed, or as soon as practicable thereafter; and in

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When heard; stay of proceedings.

all cases, if notice of motion is filed before judgment or execution, the court or judge may, in his discretion, make an order staying further proceedings in the case until such motion is disposed of.

APPROVED February 16, 1881.

DEPUTY CLERKS OF DISTRICT COURTS.

AN ACT concerning the compensation of deputy clerks of district courts.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section two of an act entitled "An act to provide compensation for the clerks of the district courts," approved July 22, 1879, be amended so as to read as follows:

Salaries of deputy clerks.

SECTION 2. When such clerks may have a deputy in any other counties hereinafter named, such deputies shall be entitled to receive as compensation for their services as deputy clerks of said courts in said counties for all criminal causes, or causes in which any county, or the Territory of Montana, or any officer thereof, may be a party, or in any way interested, or liable for costs, the following yearly salaries, to-wit: In the county of Missoula, the sum of $300; in the county of Beaverhead, $650; in the county of Jefferson, $300; in the county of Gallatin, $650; in the county of Custer, $400; in the county of Meagher, $200; in the county of Choteau, $400 per year, one-fourth thereof payable quarterly by warrants drawn on the contingent fund of said counties, and paid as other warrants thereon, except in the county of Missoula, where such warrants shall be drawn on the current expense fund, and such salary shall be for the use and benefit of such deputies. And, when such clerks shall have no deputies residing in any of said counties last named, such salary shall not be paid, and nothing in this act contained shall be so construed as to authorize any compensation for any deputy in said counties of Deer Lodge, Lewis and Clarke, or Madison. And it is provided that said salaries shall be in full payment for all services as clerks in said counties in all civil and criminal causes in which any county, or the Territory, or any officer thereof as such, shall be a party, or in any way liable for costs, and for all claims or charges for any services for said counties as such clerks.

How payable.

Includes payment for.

SEC. 3. This act shall take effect and be in force from and after its approval.

APPROVED February 23, 1881.

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DISTRICT ATTORNEYS—SALARY.

AN ACT to establish the salary of district attorneys.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. The district attorney of each of the judicial districts of this Territory shall be entitled to receive for services performed by him as such, a salary of twenty-five hundred dollars per annum, payable quarterly out of the Territorial treasury, and shall receive for each mile necessarily traveled, in attending court in any county in which he does not reside, twenty cents per mile for each mile necessarily and actually traveled. Salary. Mileage.

SEC. 2. That section 596 of the fifth division of the Revised Statutes, and all acts and parts of acts in conflict herewith be, and the same are hereby, repealed.

SEC. 3. This act shall take effect and be in force from and after the 20th day of March, A. D. 1881.

APPROVED February 18, 1881.

SMALL ESTATES—SETTLEMENT.

AN ACT concerning small estates.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the following chapter be added to the second division of the Revised Statutes, entitled "Probate Practice Act:"

CHAPTER XXII.

SETTLEMENT OF SMALL ESTATES.

SECTION 569. If it shall appear, at the time of filing the inventory and appraisement, that the estate of a deceased person does not exceed five hundred dollars, the probate judge shall thereupon make an order that the administrator make final settlement of such estate at the end of six months from the date of such order. Notice of the making of such order, and of the time and place of such settlement, shall be forthwith made and published in the same manner, and for the same length of time, as now required for notice of final settlement. Such notice shall also state that letters testamentary, or of administration, have been granted, giving the date thereof, and that all persons having claims against the said estate are required to exhibit them for allowance on or before the day named therein for final settlement, and that if such claims be not thus exhibited they will be forever barred. Estates not exceeding $500.

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Real estate to be sold.

SEC. 570. The administration of such estates shall in other respects be conducted in the same manner as now provided by law, except that, if any part of such estate is real property, it shall be sold at the same time and in the same manner as the personal property.

Final settlement.

SEC. 571. At the time mentioned in said notice, or such further time as may be granted by the court, the administrator shall make final settlement of such estates. If creditors who have proved their claims, are not present in court to receive their money at the time of making such settlement, the administrator shall pay the same over to the probate judge, taking his receipt therefor, and thereafter the probate judge shall pay over such sum or sums, to the proper claimant, or claimants, upon demand.

Time may be extended.

SEC. 572. For good cause shown the probate judge may extend the time for making such final settlement, but in no case shall it be extended beyond one year from the date of issuance of letters of administration in such estates.

APPROVED February 9, 1881.

FENCES.

AN ACT concerning fences.

Be it enacted by the Legislative Assembly of the Territory of Montana:

What constitutes legal fence.

SECTION 1. The following, provided they shall be not less than four and one-half feet in height, shall be deemed legal and sufficient fences.

First. All fences constructed of not less than four strong poles or rails, the lowest not more than two feet from the ground, firmly fastened to well supported leaning posts, not more than sixteen feet apart.

Second. All fences constructed of not less than three boards, rails or poles, the lowest of which shall not be more than two feet from the ground, well secured to substantial posts set firmly in the ground at a distance of not more than twelve feet apart.

Third. All fences constructed of at least three barbed wires, the lowest of which shall not be more than two feet from the ground, and one strong pole, rail or board, all well secured to posts firmly set in the ground, at a distance not exceeding thirty-three feet apart, with at least two stays between the posts.

Fourth. All worm fences and stone walls.

Fifth. All brooks, rivers, ponds, creeks, ditches, hedges, bluffs, or other things which shall be as difficult for stock to pass as the fences hereinbefore mentioned, but the foregoing provision as to height shall not apply to things referred to in this subdivision.

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Partition fences.

SEC. 2. The respective occupants of adjoining lands enclosed with fences shall build and maintain partition fences between their own and the next adjoining enclosure in equal shares, so long as both continue to enclose the same; and such fences shall be kept in good repair throughout the year, unless the occupants of the land on both sides shall otherwise mutually agree.

At equal expense.

SEC. 3. If any occupant of land adjoining the enclosure of another shall enclose the same, upon the enclosure of such another person, he shall, within three months thereafter, build his proportion of such partition fence, or refund to the owner thereof an equal proportion of the value, at that time, of any partition fence of such adjoining occupant.

Where common enclosure is separated.

SEC. 4. Whenever any lands belonging to different persons in severalty shall have been enclosed and occupied in common, or without a partition fence between them, and one of such occupants shall desire to occupy his part in severalty, the other occupant or occupants shall, within six months after being notified thereof in writing, build and maintain his or their proportion of such partition fence as may be necessary for that purpose; and in case of neglect or refusal so to do, the person giving such notice may build such fence at the expense of the person so neglecting or refusing, to be recovered in an action, together with all damage he may sustain on account of such neglect or refusal.

Where partition fence removed.

SEC. 5. If the occupants of adjoining lands have heretofore built, or shall hereafter build, their respective portions of a partition fence, and either of them shall at any time desire to suffer the land occupied by him to lie open, he may, after having given to the occupant or occupants of the adjoining land at least six months' notice of his intention so to do, remove his proportion of such partition fence, unless such adjoining occupants shall pay or tender to him the value thereof; and if such fence shall be removed without such notice, or after payment, or tender of the value as aforesaid, the person removing the same shall be liable to the person injured, for all damage he may sustain thereby.

Repairing same.

SEC. 6. In case any person shall neglect to repair or rebuild any partition fence which by law he ought to build or maintain, the occupant of the adjoining land may, after giving sixty days' notice that a new fence should be erected, or five days' notice in writing that the repairing of such fence is necessary, build or repair such fence at the expense of the party so neglecting or refusing, to be recovered from him, with costs of suit, in any court of competent jurisdiction; and the party so neglecting or refusing, after receipt by him of the notice above provided, shall be liable to the party injured for all damages he may sustain thereby.

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Liability of stock owners for trespass.

SEC. 7. If any horse, mule or ass, or any neat cattle, hogs, or sheep, or other domestic animals, shall break into any enclosure, the fence being legal and sufficient as hereinbefore provided, the owner of such animal or animals shall be liable to make good all damages, to the owner or occupant of the enclosure, which may be sustained thereby. This section shall not be construed to require such fence, in order to maintain an action for injury done by animals running at large contrary to law.

Owner of enclosure may detain trespassing animals.

SEC. 8. If any such animal or animals shall break into an enclosure surrounded by a legal and sufficient fence as hereinbefore provided, or shall be wrongfully upon the premises of another, the owner or occupant of such enclosure or premises may take into his possession such animal or animals trespassing, and keep the same until all damages, together with reasonable charges for keeping and feeding, and all costs of suit, be paid, to be recovered in any court of competent jurisdiction; and any person who shall take or rescue any such animal so taken from the possession of the person in whose custody the same may be, without his consent, shall be liable to a fine of not less than five nor more than twenty-five dollars for each of the animals so rescued, to be recovered on complaint before any justice of the peace of the county where such offence shall be committed: *Provided*, That within twenty-four hours after taking such animal or animals into his possession, he shall give notice to the owner thereof, if known, or if unknown he shall post notices at some public place near the premises.

Proviso.

Repeals.

SEC. 9. Sections numbered 6, 7, 8, and 612 of the fifth division of the Revised Statutes of Montana, are hereby repealed.

Gates must be closed.

SEC. 10. That any person who shall knowingly, willfully and maliciously leave open any gate leading into or out of any enclosed premises, whether enclosed by a lawful fence or not, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding twenty-five dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment.

APPROVED February 23, 1881.

FIRES—PRAIRIE.

AN ACT concerning prairie fires.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 178 of the fourth division of the Revised Statutes be amended to read as follows:

Fires, carelessly set, or left burning deemed a felony.

SECTION 178. Any person who shall carelessly set fire to any timber, woodland or grass, except for useful or necessary purposes, or who shall at any time make camp

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fire, or shall light any fire, for any purpose whatever, without taking sufficient steps to secure the same from spreading from the immediate locality where the same may be used, or shall fail in any instance to put out or extinguish said fire before leaving or abandoning the same, shall be deemed guilty of felony, and, upon conviction thereof, shall be fined in any sum not exceeding one thousand dollars, or imprisonment in the Territorial prison, not less than one, nor more than three years, or both such fine and imprisonment, and shall be liable for all damages resulting from such act.

Penalty.

SEC. 2. That section 179 shall be amended to read as follows:

Wantonly firing timber or grass or failing to extinguish deemed a felony.

SECTION 179. Any person who shall wantonly or designedly set fire to any timber, wood or grass for other than necessary purposes, or who shall, from a malicious intent, fail to extinguish any fire after making the same for a necessary purpose, before leaving or abandoning the same, shall be deemed guilty of a felony, and, upon conviction thereof, shall be fined in a sum not less than one hundred dollars, nor more than two thousand dollars, or be imprisoned in the Territorial prison not less than two years nor more than seven years, or both such fine and imprisonment; and, in all cases arising under the provisions of this and the preceding section, one-half of the fine collected shall be paid to the person who shall furnish the information necessary to convict, and the other half shall be paid into the school fund of the county wherein such conviction is had.

Informer's fee.

Commissioners to post notices.

SEC. 3. The county commissioners of each county in this Territory shall annually have printed on canvas, or some other durable substance, at least fifty copies of a notice, setting forth, briefly, the offences mentioned in this act, and the penalties herein prescribed, which said notices they shall cause to be conspicuously posted along the highways of their respective counties.

APPROVED February 15, 1881.

FIRE WARDEN.

AN ACT concerning the duties of fire wardens.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 640 of the fifth division of the Revised Statutes of Montana be amended so as to read as follows:

Fire warden to have supervision over flues, chimneys, etc.

SECTION 640. When any chimney, stove, stove pipe, oven, furnace, boiler or appurtenance thereto belonging, are defective, out of repair, or so placed in any building as to endanger it or any other building by communicating fire thereto, the fire warden, on complaint of any citizen,

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either orally or in writing, or upon his own examination or other satisfactory proof, shall give written notice to the owner or occupant of such building or premises, directing said owner or occupant to repair such chimney, stove, stove pipe, oven, furnace, boiler, or appurtenance thereto, so as to make the same effectually secure against accident by fire, and said fire warden may in said notice require said owner or occupant to replace with a substantial brick chimney any defective flue, stove pipe, or other means of escape usually provided for the products of combustion, and if the said occupant or owner shall neglect for the space of three days to comply with the terms of said notice, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than ten dollars nor more than one hundred dollars, and the court taking cognizance of the case may order at any time, after such conviction, that the said defective flue, chimney, stove, stove pipe, oven, furnace, boiler or appurtenance, may be removed, or that no fire shall be maintained therein until the directions of the fire warden concerning the same shall be fully complied with; and any person who shall violate the order of the court so made, shall be deemed guilty of a contempt and shall be punished as provided by law for the punishment of contempt.

Penalty for neglect to comply.

Court may intervene.

APPROVED February 18, 1881.

FISH—PROTECTION OF.

AN ACT for the better protection of fish in the streams of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That all persons having in operation, and all persons who may hereafter construct and put in operation, in the Territory of Montana, either in person or by agent, any saw mill on any stream containing fish, are hereby required to so care for any saw dust that may emanate from any such saw mill, or saw mills, as to prevent the same from mingling with the waters of any such stream, to the injury or detriment of the fish in such stream, and all persons owning, operating, or who may hereafter own, construct or operate any saw mill on any small stream containing fish, who shall drop, dump or cart, or cause to be deposited in such stream, any such quantity of saw dust, bark or *debris*, shall be deemed guilty of a misdemeanor and, upon a conviction thereof before any court of competent jurisdiction, shall be fined in any sum not exceeding fifty dollars for each and every offence.

Saw dust and debris must not go in stream.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED February 21, 1881.

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GAME—FISH.

AN ACT to amend "An act for the protection of game, fur-bearing animals and fish."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 644 of the fifth division of the Revised Statutes be amended so as to read as follows:

SECTION 644. That any person or persons who shall willfully shoot, or otherwise kill, or cause to be killed, any grouse, prairie chickens, pheasant, foot hen, partridge or quail between the first day of March and the fifteenth day of August of each year, or shall hunt or chase with dogs, any elk, deer, antelope, moose or mountain sheep, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than two hundred and fifty dollars for each offence; and all persons are hereby prohibited from killing any of the birds named in this section at any time for speculative purposes, or for market, or for sale; and any person who shall hereafter kill, or cause to be killed, any of the birds named in this section, for the above mentioned purposes, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than one hundred dolars.

Protection of birds.

Game.

Birds not to be killed and sold.

SEC. 2. That all acts and parts of acts in conflict with the provisions of this act be, and are hereby, repealed.

SEC. 3. That this act shall take effect and be in force from and after its passage.

APPROVED February 21, 1881.

INDIANS—SALE OF LIQUOR TO.

AN ACT to more effectually prevent the sale of liquor to Indians.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That one-half of the fine mentioned in section 145 of the fourth division of the Revised Statutes, shall, when collected, be given to the person or persons who shall inform against the person guilty of the offence named in said section, and in addition thereto, the governor may offer a reward for the conviction of offenders under said section, not exceeding fifty dollars for each person convicted; and in addition to the penalties prescribed in said section 145, it shall be the duty of the officers or persons arresting such offender to seize any horses, wagons, and other personal property in

Additional inducements offered to informers.

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the possession of the offender while so selling said liquor to said Indians, or in the possesson of any other person for him, to facilitate the transportation or sale of such intoxicating liquors to said Indian or Indians, and to hold the same until the final trial of such offender; and if such person shall be convicted, the said property shall be adjudged forfeited, and shall be sold, one-half of the proceeds being paid to the informer, or person seizing the same, as the court may direct, and the other half shall be paid into the treasury of the county in which such conviction may be had.

APPROVED February 19, 1881.

INSURANCE COMPANIES AND AGENTS.

AN ACT concerning insurance companies and agents.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 723 of the fifth division of the Revised Statutes be so amended as to read as follows:

SECTION 723. That it shall be unlawful for any fire or life insurance company, association, corporation or partnership, incorporated by, or under, or organized pursuant to, the laws of any foreign government, State or Territory of the United States, other than the Territory of Montana, directly or indirectly, to take any risks or transact any business of fire or life insurance in this Territory, unless possessed of an actual capital of two hundred thousand dollars; and any such company, association or corporation desiring to transact any business as aforesaid in, or relating to the property or persons of, this Territory, by agent or agents within this Territory, shall first appoint an agent or attorney within this Territory who shall be a resident or residents thereof, on whom process of law can be served, which appointment shall be in writing and under the seal of such company or corporation, and shall fully authorize such person to appear as the agent or attorney of such company or corporation, in all suits commenced against such company or corporation in this Territory until another agent or attorney shall be appointed for that purpose, which written instrument shall be filed in the office of the auditor of this Territory, and by him be recorded and preserved; and when so filed, such appointment shall continue until another agent or attorney shall be substituted as aforesaid; and any process issued by virtue of the laws of this Territory, from any court in this Territory, and served upon such agent or attorney by the proper officer authorized to serve such process, shall be deemed a sufficient and personal service upon such company or corporation, and shall bind the same, to all

Must have actual capital of $200,000.

Shall appoint resident agent subject to process.

Appointment filed with auditor.

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intents and purposes, as though served upon the officers of said company or corporation in this Territory; but such service may be made in any other manner provided by law.

License to be taken out.

SEC. 2. That section 726 of the fifth division of the Revised Statutes be so amended as to read as follows:

SECTION 726. Every fire or life insurance company, or corporation, before transacting any fire or life insurance business within this Territory, or soliciting, or taking any risk, or effecting, or issuing any policy upon any property or person in this Territory, from and after the passage of this amended act, shall procure a license to transact such business from the treasurer of the county in which its business shall be carried on, and pay therefor in each county containing more than four thousand inhabitants at the rate of twelve and one-half dollars per quarter, or forty dollars per annum, and in each county containing four thousand inhabitants, or less, at the rate of seven dollars per quarter, or twenty dollars per annum; and all moneys received for such licenses shall be applied to the maintenance of the fire department of the town or city where such business shall be carried on, if there be such fire department there established; if not, then such moneys shall go to the general fund of such county.

Requirement annulled.

SEC. 3. That insurance companies which comply with the provisions of Chapter XXXI, fifth division of the Revised Statutes shall not be required to file in any office the documents mentioned in the act entitled "An act concerning foreign corporations," approved July 22, 1879.

SEC. 4. That section 724 of the fifth division of the Revised Statutes, be amended so as to read as follows:

SECTION 724. And every such company, association or corporation, shall file a certified copy of their act of incorporation, articles of association, charter or deed of settlement, together with a statement, under the oath of the president, secretary, or a trustee, or manager of such company or corporation, with the auditor of the Territory, which statement shall state the name of the company or corporation, the place where located, the amount of its capital, with a detailed statement of its assets, incumbrances and liabilities, including all claims against the company; also a copy of the last annual report of the company or corporation, which statement shall, after the first year, be renewed annually, if made by a company organized under the laws of any State of the United States, on or before the first day of March; if made by a company organized under the laws of any foreign country, on or before the first day of may of each year; and no insurance agent in this Territory shall, after the first day of August, 1879, transact any insurance business within this Territory for, or on behalf of, any insurance company, or corpo-

Act of incorporation to be certified and filed.

Annual report.

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ration, who shall not have complied with the provisions of this chapter and received a certificate from the auditor of the Territory as herein provided.

APPROVED February 14, 1881.

JURORS—CHALLENGES.

AN ACT in relation to jurors.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 286 of the third division of the Revised Statutes, be amended so as to read as follows:

SECTION 286. A challenge to an individual juror may be for one of the following causes:

Challenges to individual jurors for cause.

First. A conviction of felony, when the juror has not been fully restored to the rights and privileges of a citizen by pardon.

Second. A want of any of the qualifications prescribed by statute for a juror.

Third. Unsoundness of mind, or such a defect in the faculties of the mind or the organs of the body as renders him incapable of performing the duties of a juror.

Fourth. Consanguinity or affinity within the fourth degree, to the person alleged to be injured by the offence charged, or on whose complaint the prosecution was instituted, or to the defendant.

Fifth. Standing in the relation of guardian and ward, master and servant, or landlord and tenant; being a member of the family of the defendant, or of the person alleged to be injured by the offence charged, or on whose complaint the prosecution was instituted, or in the employ of either of them or the defendant on wages.

Sixth. Being a party adverse to the defendant in a civil action, or having complained against, or being accused by, him in a criminal action.

Seventh. Having served on the grand jury which found the indictment.

Eighth. Having served on a trial jury which has tried another person who was charged with the same offence, in the same indictment as the defendant.

Ninth. Having been one of a jury formerly sworn on a trial jury to try the same indictment, which was discharged without a verdict after the case was submitted to it.

Tenth. Having served on a jury in a civil action brought against the defendant for the act charged as an offence.

Eleventh. Having formed or expressed an opinion as to the guilt or innocence of the accused; but if a juror

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state that he has formed or expressed an opinion as to the guilt or innocence of the accused, the court shall thereupon proceed to examine such juror as to the ground of such opinion, and if it appear to have been founded upon reading newspaper statements, communications, comments or reports, or upon rumor or hearsay, and not upon conversations with witnesses of the transaction, or reading reports of their testimony, or hearing them testify, and the juror state, on oath, that he feels able, notwithstanding such opinion, to render an impartial verdict upon the law and the evidence, the court, if satisfied that he is impartial and will render such verdict, may, in its discretion, admit him as competent to serve in such case.

Twelfth. That a juror is a material witness for either party, or has been a material witness on a former trial of the issue.

Thirteenth. The existence of a state of mind in the juror evincing enmity against, or bias to, either party.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 23, 1881.

JURORS—FEES IN CERTAIN COURTS.

AN ACT to prescribe the fees of jurors and witnesses in the probate and justice's court.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That every juror and witness attending before any probate or justice's court, in obedience to process issued from such court, shall receive for such attendance and service one dollar and fifty cents per day, and twenty cents per mile for each mile necessarily and actually traveled, in going to and returning from said court: *Provided,* That no mileage shall be allowed for any distance less than one mile. Per diem and mileage.

SEC. 2. That all acts and parts of acts in conflict herewith are hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

APPROVED February 4, 1881.

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JURORS—FEES IN CIVIL CASES.

AN ACT concerning the fees of jurors in civil cases.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Jury fees to be taxed as costs.

SECTION 1. That in all civil actions which shall be tried by a jury in the justice's court, probate court, or district court within this Territory, the fees of the jury shall be taxed against the unsuccessful party, and collected in the same manner as other costs in the action; and when collected shall be paid to the county treasurer of the proper county by the officer collecting the same.

Treasurer to receipt.

SEC. 2. The county treasurer shall execute and deliver to the officer paying said costs a receipt therefor, and shall transfer said moneys so collected to the general fund of the county.

Construction.

SEC. 3. This act shall not be so construed as to affect the obligation of the county in which civil actions shall be tried to pay the fees of the jury therein to the jurors.

APPROVED February 21, 1881.

JURY—INSTRUCTIONS TO.

AN ACT concerning instructions to the jury.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Jury may be given the written instructions.

SECTION 1. Add to the sixth subdivision of section 253, of the first division of the Revised Statutes of Montana, the following words: "And the instructions so given may, in the discretion of the court, by the jury be taken to their room when they retire to consider of their verdict, and by them shall be returned into court with their verdict in the case."

Ibid.

SEC. 2. Add to section 325, of the third division of the Revised Statutes of Montana, the following words: "Which shall be in writing, and may, in the discretion of the court, by the jury be taken to their room when they retire to consider of their verdict, and by them shall be returned into court with their verdict in the case."

APPROVED February 22, 1881.

JURY DUTY—PERSONS EXEMPTED FROM.

AN ACT exempting certain persons from jury duty.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 781 of the fifth division of the Revised Statutes be, and the same is, amended so as to read as follows:

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SECTION 781. The following persons shall be exempt from serving as grand or trial jurors, viz: All priests or ministers of the gospel; attorneys and counselors at law; practicing physicians; all county, township or Territorial officers; the foreman and clerk and one engineer, and twenty-five firemen of any organized fire company in this Territory, who now, or may hereafter, operate any fire engine, and the persons hereby exempted shall be selected from the roll of said company according to the seniority of membership; and a list containing the names of such persons shall be made out by the secretary of such company, and filed with the clerk of the board of county commissioners on the first Mondays of December, March, June, and September, and any failure to file the list hereby required shall be considered as a waiver of such exemption.

Persons exempted from jury duty.

Requirements in case of firemen.

SEC. 2. That sections 783 and 784, of the fifth division of the Revised Statutes, are hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

APPROVED February 19, 1881.

JURORS—QUALIFICATIONS OF.

AN ACT defining the qualifications of jurors.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 780, of the fifth division of the Revised Statutes be amended so as to read as follows:

SECTION 780. Any male person, of lawful age, who is a citizen of the United States, or has declared his intention to become such, and who is a tax-payer, and *bona fide* resident of the county, shall be competent to serve as a grand or trial juror.

Qualifications defined.

APPROVED February 9, 1881.

JURORS—SELECTION OF.

AN ACT to provide for the manner of selecting jurors.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 773 of the fifth division of the Revised Statutes be amended so as to read as follows:

SECTION 773. The county commissioners of any county in which a term of the district court is or may be held, shall, at least twenty days prior to the commencement of said term of court, select the names of

County commissioners to select jurors.

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Manner of selection.

one hundred persons lawfully qualified to serve as jurors from the county assessor's books of the county, and the names of the persons so selected, after being written on separate slips of paper, shall be deposited in a box to be provided for such purpose, and from the names so deposited the county commissioners shall alternately draw the names of thirty persons who shall be summoned as trial jurors for the next ensuing term of such district court.

SEC. 2. That section 246 of the first division of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

Number of jurors.

SECTION 246. At the commencement of any term of the district court, or as soon thereafter as the trial jurors summoned shall be in attendance, the judge shall examine the jurors who appear, and if more than twenty-four trial jurors who are qualified and not subject to any exemption, or any of the disqualifications provided in this act, shall appear and remain after all excuses are allowed, the court shall discharge by lot the number in excess of twenty-four. If for any reason the panel of trial jurors shall not be full at the opening of the court, or at any time during the term, the clerk shall, under the direction of the court, draw from the box furnished by the county commissioners, as provided by law, so many additional names as the court shall direct to fill such panel, who shall be summoned in the same manner as the others, and, if necessary, jurors may continue to be drawn and summoned, from time to time, until the panel shall be filled. When, by reason of challenge in the selection of a jury for the trial of any cause, or by reason of the sudden sickness or absence of any juror, for any cause, the regular panel shall be exhausted, the court may direct the sheriff to summon from the citizens of the body of the county, and not from the bystanders, so many qualified persons as may be necessary to complete the jury for the pending trial; but upon objection by either party to the cause, to the sheriff summoning a sufficient number of persons to fill the panel, the court shall appoint a special bailiff to summon such persons: *Provided,* The same person shall not be appointed special bailiff more than once at any term of court. When a sufficient number of persons having the qualifications of jurors as provided in this act, to fill the panel in order that a jury may be drawn therefrom, and when such jury is drawn, the persons selected from the citizens to fill the panel and not chosen on the jury, shall be discharged from the panel, and those chosen to serve on the jury shall also be discharged from the panel at the conclusion of the trial: *Provided,* That persons so selected shall not thereby be disqualified, or exempt from service, as jurors when regularly drawn by the clerk for that pur-

Additional jurors may be drawn at opening of court.

When regular panel is exhausted.

Discharges made.

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pose in the manner provided by law. Any person who shall seek the position of juror, or who shall ask any attorney or other officer of the court, or other person, to secure his selection as a juryman, shall be deemed guilty of a contempt of court. Any attorney or party to a suit pending for trial at that term, who shall request or solicit the placing of any person upon a jury, shall be deemed guilty of a contempt of court. The jury shall consist of twelve persons unless the parties consent to a less number. The parties may consent to any number not less than three. Such consent shall be entered by the clerk in the minutes of the trial.

Penalties for soliciting selection.

Number of jury.

SEC. 3. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED February 23, 1881.

JUSTICES AND CONSTABLES—TERMS.

AN ACT concerning the official terms of justices and constables.

Be it enacted by the Legislative Assembly of the Territory of Montana.

SECTION 1. That section 462 of the fifth division of the Revised Statutes be amended so as to read as follows:

Terms, two years.

SECTION 462. That, at the next general election, and biennially thereafter, there shall be elected, by the qualified voters of each township, which may be organized by the board of county commissioners, two justices of the peace, and two constables, who shall be elected for the term of two years.

APPROVED February 9, 1881.

MARKS AND BRANDS.

AN ACT concerning marks and brands.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That all droves of cattle or sheep which may hereafter be driven into, or through, any county of this Territory, shall be plainly branded or marked with one uniform brand or mark. The cattle shall be so branded with the distinguishing ranch—or road—brand of the owner, as to show distinctly in such place or places as the owner may adopt. Sheep shall be marked distinctly with such mark or device as may be sufficient to distinguish the same readily, should they become

Cattle and sheep driven must be branded or marked.

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Fine for failing,

intermixed with other flocks of sheep owned in the Territory. Any such owner or owners, or person in charge of such drove which may be driven into or through the Territory, who shall fail to comply with the provisions of this act shall be fined not less than fifty, nor more than three hundred dollars.

SEC. 2. This act shall take effect and be in force from and after its approval.

APPROVED February 22, 1881.

MINERAL SURVEYORS.

AN ACT concerning mineral deputy surveyors.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Act repealed.

SECTION 1. That an act entitled "An act authorizing the governor of the Territory of Montana to empower United States deputy mineral surveyors to perform certain acts and duties," approved July 21st, 1879, be and the same is hereby repealed.

APPROVED February 14, 1881.

MONTANA LAW LIBRARY.

AN ACT regulating the Montana Library.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Montana library.

SECTION 1. The books, pamphlets, papers, maps and charts, paintings and engravings, and other things belonging to the Territory now in the Territorial library, and in the Territorial law library, or which shall be hereafter added to the same, shall constitute the Montana library.

Two divisions established.

SEC. 2. There shall be two divisions of the Montana library, one of which shall embrace all miscellaneous works, books, pamphlets, maps and charts, paintings and engravings, and the statutes and other books required by law to be deposited in the office of the Territorial auditor, and shall be known as the miscellaneous division of the Montana library. The other shall embrace all books of reports and other law books, and shall be known as the law division of the Montana library, which shall be kept in the office of the clerk of the supreme court, and of which the clerk shall be *ex-officio* librarian. The governor and secretary of the Territory, the district attorney of the judicial district in which the capital is situated, and the president of the council, shall constitute a board of directors of the miscellaneous division; and the judges of the supreme court shall constitute a board of directors of the law division of the Montana library.

Board of directors.

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Miscellaneous division, room, etc.

SEC. 3. The board of directors of the miscellaneous division are hereby authorized and required to procure suitable room or rooms, with the necessary furniture, shelving and other fixtures for the use of said division of the library, and cause the books, papers, etc., to be properly placed therein. They shall have power to appoint some suitable person to take charge thereof as librarian, with an annual salary of three hundred dollars, to be paid quarterly by the Territorial treasurer out of any money in the treasury not otherwise appropriated. The salary account shall be approved by some member of the board of directors of the miscellaneous division and filed in the office of the auditor, who shall draw his warrant therefor. For the purpose of fitting up the miscellaneous division of the library room, there shall be appropriated the sum of two hundred and fifty dollars, payable to the board of directors of said division; and any balance of said sum not used for that purpose, may be by said board expended as an additional amount for the purchasing of books and papers to be added to the library division under their charge. The board of directors shall audit and approve the accounts for fuel and lights necessary for the use of the miscellaneous division of the library, and, upon presentation, the auditor shall draw a warrant on the treasurer therefor.

Librarian.

Audit of accounts.

Rules and regulations.

SEC. 4. Each board of directors shall have power to make such rules and regulations, not inconsistent with this act, for the regulation of the division of the library under their charge, as they may deem proper, and may prescribe penalties for any violation thereof, which shall be collected in the same manner as for the non-return or injury of any book as provided in this act.

Surplus and duplicate copies.

SEC. 5. The directors of the law division of the Montana library may sell or exchange any surplus or duplicate copies of books, or sets of reports, in such division of the library, and use the money arising from such sale in purchasing other law books or reports for such library.

Historical department.

SEC. 6. There shall be established and maintained with the miscellaneous division of the Montana library an historical department, the object of which shall be to collect, preserve and publish the national and political history of the Territory. For this purpose the librarian of said division shall procure, as far as possible, all writings, histories, letters, lectures, essays, maps, charts and books relating to said Territory and its history, and carefully preserve the same. In like manner he shall procure specimens of geology, mineralogy, and botany, and cause the same to be carefully labeled, with the date of procuring the same, and the location where produced; and, in case of voluntary contributions, the name of the donor shall be added thereto. He shall cause the same to be carefully packed in boxes and cases, suitable for examination, and retain the same within the library.

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The said librarian shall also procure full copies of all newspapers heretofore or hereafter published in the Territory, and cause the same to be bound in suitable volumes, and deposit and keep the same in the library. In like manner he shall procure at least one copy of all pamphlets, magazines and books published in the Territory, for the use of the library.

Catalogue to be made.

SEC. 7. It shall be the duty of each librarian to make out a written catalogue, conveniently arranged in alphabetical order, of all books, maps, charts and pamphlets, in the division of the library under his charge, adding thereto as the library is increased, which shall be kept for the use of the persons authorized to withdraw books. They shall also cause all books and property belonging to each division of the library to be properly stamped, or marked, with a printed or stamped label, on the inside of the cover, containing the words "Montana library—law division," [or] "Montana library—miscellaneous division," as the case may be, and also to write the same words on the thirtieth page of each volume, at the bottom, and shall, one month prior to each regular session of the legislature, make out and deliver to the governor, a full catalogue of all such books and property in his possession. A copy of such catalogue shall be sent by the governor to the speaker of the house of representatives on the meeting of the house, and published with the book edition of the journals of the legislature. Said librarians are hereby authorized to pay reasonable freight, express and mail charges upon books or other documents sent to either division of said library by the general or state governments, or by private parties, taking proper vouchers therefor; and, upon the presentation of such vouchers, the Territorial auditor shall, at the end of each quarter in the year, issue a warrant upon the Territorial treasurer in favor of such librarians for the amount due for such freight, express and mail charges at the time. Said librarians shall also make out and post in some convenient and conspicuous place a statement of the rules and regulations of the library.

Mail, express and freight charges—how paid.

Annual report of librarian.

SEC. 8. Each librarian shall, on or before the twentieth day of December in each year, report to the governor the condition of the division under his charge, stating the number of the volumes contained therein, the number of volumes purchased during the past year and the cost thereof; the number of volumes received by donation; the number of volumes injured or not returned, if any, and the amount received in compensation therefor, and such suggestions and further information as may be deemed by him desirable.

Exchanges.

SEC. 9. The librarians of each division of the library are hereby directed to exchange statutes, journals, legislative documents and other books with other legislative bodies and librarians as they shall deem proper, under the direction of the board.

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Reciprocal transfer.

SEC. 10. The librarians shall transfer, each to the other, all the books, pamphlets, papers, etc., which, by the terms of this act, belong to the two divisions respectively, now in their possession, or which shall hereafter come into their possession as such librarian.

Access to library.

SEC. 11. All persons shall be permitted to visit the library and examine and read the books therein, and may take out any book and retain the same for three weeks by depositing a sum of money, equal to double the value of the book, with the librarian, which sum shall be returned to the owner on the return of the book. The governor, and all officers of the Territory, and their clerks actually engaged in the service of the Territory, judges of the supreme court, district and probate courts, United States attorney and marshal, all licensed attorneys, members and ex-members of the legislative assembly, and their clerks, and sergeant-at-arms, shall have free access to the use of the books of the library, and have the liberty of taking the same out, under such regulations as may be prescribed by the board of directors of either branch of said library; but no public officer, or other person having the right to take books out of the library, shall have the authority to give any other person an order to take any book out of the same; and if any person having such right shall give such order, or otherwise obtain books from the same to be used by any other person not having the right, such person shall thereupon forfeit all right to take books therefrom.

Official privileges restricted

Forfeit for injury.

SEC. 12. If any person injure, or fail to return any book taken from the library, he shall forfeit and pay to the librarian of the division to which it belongs, for the use of the library, double the value thereof, or of the set to which it belongs, if a set is broken by its loss, to be recovered in an action, in the name of the Territory of Montana, in any court of competent jurisdiction.

Law division library.

SEC. 13. The board of directors of the law division of the library are hereby authorized to rent for the period of two years, and thereafter for the same period, a suitable room for the office of the clerk of the supreme court, and also cause to be procured the necessary fuel and light therefor, to be paid for out of any money in the Territorial treasury not otherwise appropriated, in the manner and form as hereinafter provided.

Rent certified.

SEC. 14. For the rent of office an account shall be made out in favor of the lessor of the premises for the quarter's rent due, which account shall be signed by the clerk of the supreme court and approved by one of the judges of the supreme court.

Accounts audited.

SEC. 15. The fuel and light accounts shall be made out by the clerk for the amount necessary to be used in his said office, and sworn to by him, and in like manner approved. Upon the presentation of these several

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accounts to the Territorial auditor, he shall file the same in his office and draw the proper warrant upon the Territorial treasurer.

Special appropriation.

SEC. 16. There shall be appropriated the sum of two hundred and fifty dollars, to be paid out of any money in the Territorial treasury, to the board of directors of the law division of the library upon their request to the auditor therefor, and by them expended in the purchase and procurement of office fixtures, and material suitable to the furnishing and necessary use of the clerk of the supreme court, and for the proper care and placing of the books, reports and official records, papers and documents pertaining to his office as clerk of the supreme court librarian.

Salary of law librarian.

SEC. 17. There shall be appropriated, in like manner, the sum of three hundred dollars as the annual salary of the clerk of the supreme court and *ex-officio* librarian, to be paid quarterly in like manner as other Territorial officers.

Annual appropriation.

SEC. 18. There shall be appropriated, in like manner, to each of the two divisions of the library, the sum of one hundred dollars annually, to be expended by the board of directors in the purchase of books, papers, etc., for the use of the several divisions of the library under their charge. On or before the first day of June, 1881, and each year thereafter, before said date, it shall be the duty of the Territorial auditor, upon the request of a majority of either of the boards of directors, to draw his warrant on the Territorial treasurer, payable to their order, or the order of one of them, for said sum of one hundred dollars, and to deliver to said directors said warrant.

SEC. 19. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 20. This act shall take effect and be in force from and after its passage.

APPROVED February 21, 1881.

NUISANCES.

AN ACT to define and punish certain nuisances.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Certain nuisances defined; penalty.

SECTION 1. That every person who shall, within the exterior limits of any unincorporated town or village in the Territory of Montana, place and keep large quantities of wood, hay, straw, powder or other combustible or explosive materials, so as to endanger the dwelling houses or other buildings in the neighborhood from fire, shall be deemed guilty of establishing, or keeping and

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maintaining, a public nuisance, and shall, upon conviction thereof before any court of competent jurisdiction, be fined in any sum not exceeding one hundred dollars.

SEC. 2. That it shall be the duty of the owner of any horse, cow, mule, ass, hog, dog or other animal which shall die within the limits of any unincorporated town or village in the Territory of Montana, to remove the same from such town or city within twenty-four hours after the same shall have died, and bury or burn the same. Any person who shall violate the provisions of this section shall be deemed guilty of keeping and maintaining a nuisance, and, upon conviction thereof before any court of competent jurisdiction, shall be punished as provided in section 1 of this act.

Carcasses to be removed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 18, 1881.

OPIUM DENS.

AN ACT to prohibit the keeping of opium dens.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. Any person or persons who shall keep, or who, being the owner thereof, shall knowingly permit to be kept, any house, room or apartment, or other place of any kind, to be used as a place of resort by any person or persons, for the purpose of indulging in the use of opium, or any preparation containing opium, by smoking or otherwise, or who shall sell opium for such purpose, shall, on legal conviction thereof, be punished as provided in this act.

Opium dens defined.

Sale therefor.

SEC. 2. Any judgment obtained under the provisions of this act, for a fine and costs, or either, shall be a lien on the property wherein the offence was committed, which lien shall not be discharged until such judgment shall have been paid or otherwise legally satisfied: *Provided*, That such lien shall not attach in cases when it shall appear that the owner of the property was not a party to the commission of the offence, and had no knowledge thereof before its commission.

Judgment to be a lien.

SEC. 3. If any person shall use any house, room, apartment, or other place leased to him, or her, for any of the purposes forbidden by this act, such illegal use shall, at the option of the lessor, operate as a forfeiture of such lease, and of all rights given thereby, whether the same be expressed or not in such lease.

Establishing den forfeits lease.

SEC. 4. It shall not be lawful for any person to resort to any house, room or apartment, or other place kept for any of the purposes forbidden by this act, for the purpose

Unlawful to frequent den.

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of indulging in the use of opium, or any preparation containing opium, by smoking or otherwise; and any person who shall violate the provisions of this section shall, on legal conviction thereof, be punished as provided in this act.

Judgment against owner.

SEC. 5. Any person leasing any house, room, apartment, or other place to be used as a place of resort, to any person or persons for the purpose of indulging in the use of opium, or any preparation containing opium, knowing the purpose for which said house, room, or apartment are to be used, any judgment obtained, as provided in section 1 of this act, shall be a lien upon such house, room, apartment or other place of business so leased.

Penalties.

SEC. 6. Any person or persons who shall be found guilty of violating the provisions of this act shall, on conviction thereof, be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or both such fine and imprisonment, as the court shall adjudge.

SEC. 7. This act shall take effect and be in force on and after the first day of May, A. D. 1881.

APPROVED February 22, 1881.

PENITENTIARY ROOM.

AN ACT to provide for additional penitentiary room.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Governor may notify judges.

SECTION 1. That when it shall come to the knowledge of the governor, and, in his discretion, he believes that the penitentiary at Deer Lodge is insufficient to contain the prisoners sentenced to confinement therein, he shall so notify the judges of the supreme court holding district courts in the Territory.

May contract for keeping prisoners in county jails.

SEC. 2. The governor, thereupon, shall contract with the county commissioners of such counties as have suitable county jails for penitentiary purposes, for the keeping of such convicts as may thereafter be sentenced to confinement in the penitentiary, at a rate not to exceed one dollar and fifty cents ($1.50) per day for the term of such confinement, and notify the district judges aforesaid what jails have been procured for penitentiary purposes under the provisions of this act; and thereafter such jails shall be taken and considered for all intents and purposes to be penitentiaries of this Territory.

Considered penitentiaries.

Judges may so sentence.

SEC. 3. The several district judges in sentencing any person convicted of a felony shall, in such sentence, designate the particular penitentiary in which said convict shall be imprisoned, so that the intention of this act may be fulfilled.

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SEC 4. All laws now in force applicable to the penitentiary at Deer Lodge, and the keeper and convicts thereof, are hereby made applicable to the penitentiaries hereby created. Laws made applicable.

APPROVED February 22, 1881.

PROPERTY SUBJECT TO TAXATION.

AN ACT concerning property subject to taxation.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 1003, Chapter LIII, of the fifth division of the Revised Statutes, shall be amended so as to read as follows:

SECTION 1003. All other property, real or personal, within the Territory, is subject to taxation in the manner herein directed, and this is intended to embrace improvements on lands and lots in towns, including land bought from the United States, and from this Territory, whether bought on credit or otherwise, being franchises which, for the purposes of this chapter, are to be considered real property; ditches and flumes, horses, oxen and other cattle, except calves under eight months old, which shall be exempt from taxation; mules and asses, sheep, swine and goats; money in coin or gold dust, whether in possession or on deposit, and including bank bills; property or labor due from solvent debtors on contract, or on judgment, whether in this Territory or not, mortgages and other like securities; stocks or shares in any bank or company, incorporated or otherwise, and whether incorporated by this or any other Territory or State, or whether situated in this Territory or not, except that where the entire capital stock of any incorporated company shall be invested in assessable property in the Territory of Montana, such stock shall not be taxed; public stock or lands; household furniture not otherwise exempt, including gold and silver plate, musical instruments, watches and jewelry; pleasure carriages; stages, hacks and other vehicles for transporting passengers; wagons, carts, drays, sleds and other descriptions of vehicles or carriages; boats and vessels of every description, whenever registered or licensed, and whether navigating the waters of this Territory or not, if owned either in whole or in part by persons who are inhabitants of this Territory; annuities, but not including pensions from the United States, or any of the States. Taxable property specified.

APPROVED February 22, 1881.

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QUALIFICATIONS OF ELECTORS.

AN ACT concerning the qualifications of electors.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 515, of the fifth division of the Revised Statutes, be amended to read as follows:

Qualifications.

SECTION 515. That all male citizens of the United States above the age of twenty-one years, and all male persons of the same age who shall have declared their intention of becoming citizens, and who, under existing laws of the United States, may ultimately become citizens thereof, shall be deemed electors of this Territory, and be entitled to vote for delegate to congress and for Territorial, district, county, precinct and municipal officers: *Provided*, They shall have resided in the Territory six months, and in the county where they may offer to vote, thirty days next preceding the day of election.

Residence.

APPROVED February 23, 1881.

RAILROADS.

AN ACT to provide for the payment of stock killed or injured by railroads.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Railroad company liable for damages.

SECTION 1. That every railroad, or railroad corporation or company operating any line of railroad or railway, or any branch thereof, within the limits of this Territory, which shall damage or kill any horse, mare, gelding, filly, jack, jenney or mule, or any cow, heifer, bull, ox, steer or calf, or any other domestic animal, by running any engine or engines, car or cars, over or against any such animal, shall be liable to the owner of such animal for the damages sustained by such owner by reason thereof.

Duty of owner.

SEC. 2. If the owner of the animal or animals so killed, or his or her authorized agent, shall make affidavit before some officer authorized to administer oaths, that he or she was the owner or authorized agent of the owner of the recorded brand found upon the animal or animals so damaged or killed at the time of such killing or damaging, and such person shall, within six months after such killing or damaging, deliver such affidavit to the agent or an officer of such company or corporation, together with a certificate of his or her mark or brand under official seal of the county clerk of the county in which such person resides, or shall make affidavit that the animal damaged or killed as aforesaid,

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had no recorded mark or brand, and that he or she is the owner of such animal, describing it; and the corporation or company shall pay to such person delivering such affidavit and certificate, or such affidavit last as aforesaid, as follows:

SCHEDULE.

Rate of damages.

Native yearlings	$15 00
Two years old	20 00
Three years old and over	25 00
American work cattle	40 00
American sheep, each	3 00

Thoroughbred cattle and sheep shall be paid for at their cash value; horses, mules and asses shall be paid for at their cash value: *Provided*, That no railroad company shall at any time be required to pay more than the market value of any animal killed or damaged. In all cases where such railroad company or corporation shall kill any of the stock mentioned in this act, and for which no price or sum is fixed, the owner or agent of such stock shall, after the filing of such affidavit and certificate of brand, or affidavit of ownership as aforesaid, select some disinterested freeholder of the county where such killing took place, and shall notify such company or corporation of said selection; and such company or corporation shall, within three days thereafter, select some suitable person to act with the person so selected, and the two so selected shall select a third, and the three so selected shall without delay proceed to appraise the value of the stock so killed, a majority of which three appraisers shall be sufficient to determine the same, and shall certify under oath such appraisement to an agent, or superintendent of such company or corporation. In case such railroad company or corporation shall refuse or neglect to appoint such appraiser, it shall be the duty of the justice of the peace nearest to the place where such stock is so killed to select three disinterested persons as appraisers, and administer to them an oath to honestly appraise the value of such stock, which appraisers shall, without delay, appraise and forward to such justice the result of such appraisement, which justice shall, within ten days thereafter, forward to an agent or superintendent of such railroad or corporation, a certificate of the result of such appraisement and all the costs thereof; and such railroad or corporation shall, within thirty days after the receipt of such certificate, pay to the owners of such stock so killed, or his or her agent, the amount of such appraisement, together with all the costs as aforesaid; and in all cases where the value of such stock is established by this act, such company or corporation

Commission to be selected where price not fixed.

Appraisement.

Payment; how made.

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shall pay for such stock within thirty days after the delivery of the affidavit and certificate of ownership of brand, or affidavit of ownership of stock, as hereinbefore provided.

Railroad Co. to keep record book.

SEC. 3. Every railroad company shall keep a book at some station in each county through which their road runs, to be designated by the company, and a notice of the station so designated shall be filed with the county clerks of the counties in which such stations are located; and it is hereby made the duty of said company to cause to be entered in said book, within fifteen days after the killing of any animal, a description, as near as may be, of such animal, its color, age, marks and brands, and shall keep said book subject to the inspection of persons claiming to have animals killed. Should any company fail to keep said book, or to file such notice in the manner herein provided, or to enter therein such description of any animal killed, for a period of fifteen days thereafter, such company shall be liable to the owner of such animal to an amount twice the full value thereof.

Where stock purposely driven on track.

Sec. 4. If the owner of any stock shall drive any stock on the line of the track of any such company or corporation, with intent to injure such company or corporation, and such stock shall be killed or injured, such owner shall not receive any damage from such railroad company or corporation therefor, and shall be liable to such company or corporation for all damages such company or corporation may suffer in consequence of such act, and shall also be criminally guilty of felony, and be liable to an indictment therefor, and, on conviction, shall be imprisoned in the penitentiary not less than one nor more than five years; but nothing herein shall be construed to prevent any person from allowing his or her stock to pasture on the lands adjacent to the line of such railroads, or to drive his stock over or across any such track at suitable times and places.

Possession of body.

SEC. 5. In every case of the wounding and killing of any such cattle or sheep, the price of the damages for which is fixed by this act, the body of such animal shall belong to such company unless the owner thereof shall elect to take the same in lieu of said damages, or part thereof, within twenty-four hours after said wounding or killing; but in every other case, the railway or railroad company may proceed to take care of and preserve the body of said animal; and it shall be the duty of said company to preserve the hide of such animal for at least thirty days after such killing for inspection, by said railroad or corporation at the station house nearest to the place where such killing occurred. If any agent or employee of such company shall bury any animal killed or wounded by such company, without skinning the same, or shall neglect to keep for thirty days for inspection any hide so taken as herein provided, such agent or employee,

Preservation of hide.

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or such company, shall be fined in any sum not less than one hundred, nor more than three hundred dollars for each and every animal, to be collected in the name of the people of the Territory of Montana, before any court of competent jurisdiction. One-half of the amount so received to go to the county treasury of the county wherein the recovery is had, and the other half to the person at whose instance the suit was brought.

Penalty for making false oath.

SEC. 6. Any person falsely making an affidavit of ownership of any animal killed or damaged, shall, on conviction thereof, be liable to a fine of not less than five hundred dollars, and imprisonment in the penitentiary for not less than one year.

Railroad company to use certain precautions against fire.

SEC. 7. It shall the duty of all railroad corporations, or railroad companies, operating any railroad within this Territory, to keep their railroad track, and either side thereof for a distance on each side of the track or road bed, so far as it passes through any portion of the Territory of Mantana, free from dead grass, weeds, or any dangerous or combustible material; and any railroad company or corporation so failing to so keep their railroad track free and clear, as above specified, and each side thereof, shall be liable for any damages which may occur from fire emanating from any operating railroad, and a neglect to comply with the provisions of this act in keeping clear any railroad track, and either side for a distance equal to the space of ground covered by the grant of the right of way for the railroad company, provided that the same does not exceed one hundred feet on each side of the road bed, shall be *prima facie* evidence of negligence on the part of any railroad corporation so operating any railroad within the Territory of Montana.

SEC. 8. This act shall take effect and be in force from and after its passage.

APPROVED February 23, 1881.

REVISED STATUTES OF MONTANA.

AN ACT to revise and codify the general laws of the Territory of Montana in force at the expiration of the eleventh regular session of the Legislative Assembly, on the twenty-first day of February, A. D. 1879.

[*See Revision Preceding.*]

ROADS AND HIGHWAYS.

AN ACT concerning roads and highways.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Certain contracts let to lowest bidder.

SECTION 1. That the erection and repairing of bridges and approaches thereto, the building of culverts, repairs and improvements on roads, the cost or expense of which

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shall exceed one hundred dollars, shall be let by the county commissioners to the lowest competent bidder, and every bidder before entering on any work pursuant to contract, shall give bond to the county, with at least two good and sufficient sureties, in any sum double the amount of the contract, which bond shall be approved by the county commissioners conditioned for the faithful execution of the contract.

Bids to be invited.

SEC. 2. Before any contract, as aforesaid, shall be let, the county commissioners shall advertise for bids therefor, and shall require bidders to accompany their bids with plans and specifications of the work, and they may accept the most suitable plan and award the contract accordingly, or may reject any and all bids.

Apportionment of road moneys.

SEC. 3. It shall be the duty of the board of county commissioners, at each session thereof, to apportion the amount of money in the treasury available for road purposes to the several road districts, and notify the road supervisor of the amount subject to his order, and in no case shall any supervisor be allowed to draw more money than is apportioned to said district.

Inapplicable to temporary obstructions.

SEC. 4. The provisions of this act shall not apply to temporary obstructions occurring in roads already laid out and opened.

APPROVED February 22, 1881.

ROAD SUPERVISORS—DUTIES.

AN ACT concerning road supervisors.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 1077, fifth division of the Revised Statutes, be, and the same is hereby, amended so as to read as follows:

Compensation and duties of supervisor.

SECTION 1077. Every supervisor of roads shall receive for each day necessarily employed in the performance of any of the duties required by this article the sum of three dollars per day, to be paid out of the general road fund, but not to exceed one-fourth of the special road tax collected in the district in any one year; and it shall be the duty of the supervisor to notify all persons subject to road labor, within his road district, superintend the work on roads, and it shall be the duty of the supervisor to make to the board of county commissioners at their regular meetings in June and December, semi-annual written reports, verified by his affidavit thereon, showing:

First. The names of all persons assessed to work in his district.

Second. The names of all who have actually worked, and the number of days' work performed by each.

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Third. The names of all delinquents.

Fourth. A full return by items of the amount of labor and money expended at each separate point, and the manner in which, and the time when, the same was done.

Fifth. The names of all persons to whom he has issued supervisor's certificates, and the amount of such certificates.

Sixth. An accurate account of every day he himself was employed, and the nature and items of the service rendered. To prosecute in certain cases.

SEC. 2. It shall be the duty of all road supervisors in their respective road districts to prosecute all persons offending against the provisions of section 739 of the fifth division of the Revised Statutes, and, if any road supervisor shall fail for a period of three days after his attention shall be called in writing to any violation of said section, to commence a prosecution of said offence, he shall forfeit and pay, for every day he shall so fail, neglect or refuse to prosecute the same, the sum of ten dollars, to be recovered with costs of suit, in a civil action in the name of the Territory of Montana, and shall be paid into the county treasury for the benefit of the common school fund.

APPROVED February 21, 1881.

ROAD SUPERVISORS—OFFICIAL TERMS.

AN ACT concerning the official terms of road supervisors.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 1068 of the fifth division of the Revised Statutes be amended so as to read as follows:

SECTION 1068. At every general election in this Territory there shall be elected by the qualified voters of each road district in each county a supervisor thereof, who shall hold his office for the term of two years, beginning on the third Monday of December next ensuing after his election. The county clerk shall immediately notify each supervisor of his election, and said supervisor shall qualify within twenty days after his election. Term two years; when elected.

SEC. 2. That section 1069 of the fifth division of the Revised Statutes be amended so as to read as follows:

SECTION 1069. Each supervisor shall hold his office for two years, unless sooner removed, and shall take an oath to faithfully discharge the duties of his office, and shall enter into an undertaking to the county with one or more sureties, to be approved by the county commissioners, in any sum specified by them, not exceeding two thousand dollars, to the effect that he will faithfully Shall make oath and bond.

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Vacancies; how filled.

account for all moneys collected by him, and perform the duties of his office according to law. The county commissioners shall have power at any time to fill all vacancies that may occur in said office, and remove from office any supervisor who shall fail, neglect or refuse to perform the duties of his office.

APPROVED February 22, 1881.

SALOONS OR GAMING HOUSES.

AN ACT to require persons keeping saloons or gaming houses to prohibit boys from stopping therein.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Minors not to frequent.

SECTION 1. Every [any] person or persons who, keeping a saloon, dram shop or gaming house, or other place of resort wherein intoxicating liquors are sold by retail, or games of chance are played, shall permit any minor to resort to, or stop therein, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be fined in any sum not less than ten nor more than one hundred dollars, or be imprisoned in the county jail not less than one nor more than thirty days: *Provided*, This section shall not be so construed to apply to any minor who may be employed as clerk in any of the above named places: *Provided*, That parents or guardians shall have previously given written notice to the owners, or keepers, of such saloons or gaming houses, to not allow their boys or wards to resort to and remain therein.

Keeper fined.

Provisos.

Fines to school fund.

SEC. 2. All fines collected under the provisions of this act shall be paid into the county treasury for the benefit of the school fund of the county in which such conviction is had.

SEC. 3. That section 193 of the fourth division of the Revised Statutes be, and the same is, hereby repealed.

APPROVED February 14, 1881.

SEVEN PER CENT. BOND SINKING FUND.

AN ACT concerning the seven per cent. bond sinking fund.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Duty of treasurer when fund exceeds $1,000.

SECTION 1. It shall be the duty of the Territorial treasurer, at any time before the coupon bonds of the Territory of Montana shall become redeemable, at the pleasure of said Territory, and when there is a sum exceeding one thousand dollars in the "seven per cent. bond sinking fund," over and above the accrued interest

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on such bonds still outstanding, and from time to time thereafter when it shall so occur, to cause a notice to be published in a newspaper of this Territory, that he will within thirty days from the date of such notice, purchase said amount of said bonds in the order in which the same shall be offered for sale. Such notice shall also be sent by mail to the owners or holders of such bonds, if the treasurer has notice or knowledge of the address of such owners or holders; and if, at the expiration of the said thirty days, the owners or holders shall fail to offer for sale any of said bonds, or if the amount of said bonds so offered for sale shall be less than the sum of money in the said sinking fund, it shall be the duty of the Territorial treasurer to transfer the surplus moneys in said sinking fund to the general or warrant fund.

Notice to holders.

SEC. 2. It shall be the duty of the Territorial treasurer to apply said moneys in said sinking fund to the purchase of the said bonds which shall be offered for sale by the owners or holders thereof within the times mentioned in the notice prescribed in the preceding section, and pay therefor the amount of the principal and interest thereof. If the moneys in said sinking fund shall be insufficient to pay for all of said bonds which shall be offered for sale, it shall be the duty of the Territorial treasurer to use said moneys in buying the said bonds in the order in which they shall have been offered for sale; and the moneys which shall thereafter accumulate in said sinking fund shall be applied to the purchase of the remainder of said bonds, unless the owners or holders shall withdraw their offer to sell the same.

Disposal of surplus fund.

How bonds shall be redeemed.

SEC. 3. When such coupon bonds shall become redeemable, at the pleasure of this Territory, it shall be the duty of the Territorial treasurer to transfer to said sinking fund, from the general or warrant fund, the moneys that shall have been transferred from said sinking fund to the general or warrant fund under the provisions of this act.

Transfer of funds.

[NOTE BY THE SECRETARY.—The foregoing act having been presented to the governor of Montana Territory on the 18th day of February, 1881, for approval, and not having been returned by him to that house of the legislative assembly in which it originated within the time prescribed by section 1842, Chapter I, Title XXIII, Revised Statutes of the United States, has become a law without his approval.]

TAX—TERRITORIAL.

AN ACT to reduce the Territorial tax.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 1000 of tbe fifth division of the Revised Statutes be, and the same is, hereby amended so as to read as follows:

SECTION 1000. There shall be levied annually by the board of county commissioners of each county in this

Rate of annua tax levy.

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Territory, and collected by the county treasurer of such counties, an *ad valorem* tax on each dollar of assessed valuation on all property in this Territory subject to taxation: For Territorial purposes, on each dollar, one mill; for county purposes, on each dollar, any sum not exceeding sixteen mills; and for school purposes, not less than three nor more than five mills; and for the benefit of the poor, not less than one nor more than five mills; and such levy when made shall be entered on the books of said commissioners.

When levy made.

SEC. 2. That the board of county commissioners of each county in this Territory shall, at the first regular meeting thereof, held after the passage of this act, proceed to levy the tax for Territorial purposes herein authorized to be levied and collected, and such tax thereafter shall be collected in lieu of the Territorial tax levied in January, 1881, by the said county commissioners.

[NOTE BY THE SECRETARY.—The foregoing act having been presented to the governor of Montana Territory on the 18th day of February, 1881, for approval, and not having been returned by him to that house of the legislative assembly in which it originated within the time prescribed by section 1842, Chapter I, Title XXIII, Revised Statutes of the United States, has become a law without his approval.]

TERRITORIAL OFFICERS.

AN ACT relative to Territorial officers.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Terms of certain Territorial officers.

SECTION 1. The governor shall nominate and, by and with the consent of the legislative council, appoint during the present session of the legislative assembly suitable persons to be Territorial treasurer, Territorial auditor of public accounts, and a superintendent of public instruction, who shall hold their offices for two years and until their successors are duly appointed and qualified. They shall be commissioned by the governor, and take the official oaths, give the official bonds, and perform the duties of their respective offices as now required by law.

Attorney-General.

SEC. 2. The district attorney of the judicial district in which the seat of government is situated shall be *ex-officio* attorney-general of the Territory. He shall make and file an oath in the office of the Territorial auditor that he will support the Constitution of the United States and the acts of congress pertaining to the Territory of Montana, and that he will faithfully perform the duties of the office of attorney-general, and shall give bond in the sum of five thousand dollars, with two or more sufficient sureties to be approved by the Territorial treasurer and filed in his office, conditioned, that he will faithfully perform the duties of his office.

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Shall prosecute or defend.

SEC. 3. The attorney-general shall attend each of the terms of the supreme court and there prosecute or defend, as the case may be, on the part of the Territory, all causes to which the Territory may be a party; also all causes to which any officer of the Territory may, in his official capacity, be a party; also all causes to which any county may be a party, other than those in which the interest of the county may be adverse to the Territory, or an officer of the Territory acting in his official capacity. And, after judgment obtained in any such cause, he shall direct such proceedings and sue out such process as may be required to carry the same into execution. He shall account for, and pay over to the proper officer without delay, all moneys which may come into his hands belonging to the Territory or any county. It shall be his duty to assist in all impeachments tried before the legislative council.

Impeachments.

Shall give written opinions.

SEC. 4. When required, the attorney-general shall give his opinion in writing upon any question of law to the governor, secretary of the Territory, treasurer, auditor, superintendent of public instruction, trustees, commissioners or wardens of any Territorial prison, or hospital, or asylum, or officers of any Territorial institution whatever, upon any question of law relating to their respective offices, without fee or compensation.

Shall keep docket.

SEC. 5. The attorney-general shall keep a docket of all cases to which the Territory, or any county, or any officer of the Territory in his official capacity, may be a party, which docket shall at all times in business hours be subject to inspection of the public; which docket shall set forth the county, district and court in which the case shall be instituted or tried, the cause and nature of the action, a brief record of all proceedings had, and memorandum of the judgment and process issued thereon, and to what extent satisfied.

Lands donated, etc.

SEC. 6. It shall be the duty of the attorney-general, so soon as any lands or other property shall be set apart or donated to the Territory, or State formed or to be formed within its limits, for the benefit of schools, or other purposes, to take immediate steps to secure the full benefits of the same, and to prevent loss, waste or trespass thereon.

Responsibility.

SEC. 7. If the attorney-general shall neglect, or refuse, to perform any duty required of him by law, he shall be deemed guilty of a misdemeanor, and shall be subject to removal from office, and shall be responsible on his official bond for all carelessness, negligence, or malfeasance in office.

Report.

SEC. 8. The attorney-general shall, on the first day of January of each year, report to the governor the condition of affairs in his department, and he shall communicate to the governor, or either branch of the legislature, when requested, any information concerning his

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office. And it shall be his duty, when the governor shall direct, or in the opinion of the attorney-general it shall be necessary to secure any interest of the Territory, to commence and prosecute, or defend, any suit or proceedings in any court in this Territory.

Shall protect Territorial interests.

Salary and contingent expenses.

SEC. 9. The attorney-general shall receive, as a salary, in full compensation for all services required of him by this act, the sum of five hundred dollars per annum, to be paid quarterly by warrant of the auditor on the Territorial treasury; and, except the necessary contingent expenses of his office, which shall not exceed one hundred dollars per annum, to be audited and allowed by the Territorial auditor, he shall receive no further compensation whatever as such attorney-general.

SEC. 10. This act shall take effect and be in force from and after its passage.

APPROVED February 23, 1881.

TEXT BOOKS FOR PUBLIC SCHOOLS.

AN ACT to establish a series of text books for the public schools.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Shall be uniform.

SECTION 1. The text books in the several branches required by law to be taught in the public schools of Montana shall be uniform throughout the Territory.

For periods of four years.

SEC. 2. School text books shall be adopted for periods of four years, and such text books, when so adopted, shall be the only text books for their several branches used in the public schools of the Territory, except as hereinafter provided: *Provided*, That nothing in this act shall be construed to prevent school trustees from authorizing the use of such text books supplementary to, but not to the exclusion of, the text books adopted for the Territory, as the special needs of their schools may require.

Text books adopted.

SEC. 3. The text books hereinafter named are hereby adopted for exclusive use in the public schools of this Territory for the term of four years from the first day of July, 1881, or until changed in pursuance of law: *Provided*, That this section shall take effect only when the publishers of the books hereby adopted shall have filed with the Territorial secretary their bonds, with at least two sufficient sureties, to be approved by the governor, in the penal sum of ten thousand dollars for each publishing house, conditioned that they shall, for the period of this adoption, keep the said books, and each of them, for sale at wholesale in the city of New York to all merchants in this Territory, or to school trustees desiring to purchase the same from time to time, in such quantities as may be requisite to supply their schools, at prices not exceeding

Publishers shall first file bonds.

Where books on sale.

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the wholesale prices hereinafter named; and that they shall also keep, or cause to be kept, at all times during said period, the said books at retail in sufficient quantities in at least one town in each county of this Territory at prices not exceeding the retail prices hereinafter named. That in case the current wholesale market rates of said books shall ever hereafter be reduced below the said wholesale prices hereinafter named, that then all merchants and all school trustees desiring to purchase books for the supply of their schools, shall have the benefit of such reduction, and a corresponding reduction shall be forthwith made in the retail prices guaranteed to the people of this Territory; that for the period of one year from the first day of July, 1881, they will cause the said books to be sold at retail in at least one town in each county of this Territory; and, on the application of any school officer, postage free from New York, at the prices hereinafter set opposite the names of said books in the column headed "introduction;" that they will, for the period of one year from the first day of July, 1881, in at least one town in each county of the Territory, exchange copies of the books hereby adopted, grade for grade, for old books of other series now in the hands of the pupils, upon the payment in cash at the time of surrendering the old book, of the prices hereinafter set opposite the names of the said books in the column headed "exchange;" that they will prepare for Monteith's Comprehensive Geography a full page map of Montana, engraved in the best style, together with such a reasonable and proper amount of special geography of Montana as shall be satisfactory to the Territorial superintendent of instruction, and will cause the same to be included in all copies of said geography supplied by them to the people of this Territory; that they shall maintain the mechanical excellence of the said books to their present standard, in respect to binding, printing, paper and all other essential features; and that the said books shall be kept constantly revised, in the case of books which require revision, from time to time, and that those sold to the people of this Territory shall always be of the latest revised edition.

"Introductory" and "exchange" prices.

Map of Montana.

Revision to be made.

SEC. 4. In case the publishers of the books hereby adopted shall not, on or before the first day of July, 1881, file with the Territorial secretary their bonds, as hereinbefore provided, or in case they shall not, on or before the first day of July, 1882, have performed all of the undertakings of their bond, in respect to the introduction and exchange of books, and the preparation and supply of the special map and geography of Montana for Monteith's Comprehensive Geography, or in case they shall, at any time thereafter, violate or fail to perform any of the conditions specified in their bonds as hereinbefore provided, and shall fail, within a reasonable time after due notice, mailed to them by the Territorial superintendent

In failure of publishers, superintendent shall prescribe series.

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of public instruction, to make good their guarantee in any respect in which they may have failed, then this adoption shall become null and void, and the superintendent of public instruction shall thereupon adopt and prescribe for the use of the common schools of this Territory such books or series of books as he shall deem necessary for the interest of said schools; and the said books so adopted shall be continued in use until changed, as prescribed in section 3 of this act; and it shall be the duty of the Territorial superintendent of public instruction to proceed by suit to the enforcement and collection of the bond of the publishers so failing, for the benefit of the common schools of this Territory.

Titles and prices of series adopted.

SEC. 5. The following are the titles of the text books adopted by this act, with the introductory and exchange prices which the publishers shall be bound to maintain from the first day of July, 1881, to the first day of July, 1882; and the wholesale and retail prices which they shall be bound to maintain thereafter as hereinbefore provided:

NAMES OF BOOKS.	Wholesale prices. Ten per cent. off the list prices here given in New York.	Retail prices.	Introductory prices.	Exchange prices.
Watson's Independent Primary Reader.	.18	.25	.15	.10
Watson's Independent Second Reader..	.35	.40	.25	.15
Watson's Independent Third Reader....	.50	.60	.40	.20
Watson's Independent Fourth Reader...	.63	.75	.50	.25
Watson's Independent Fifth Reader	.90	1.10	.70	.40
Watson's Independent Sixth Reader....	1.00	1.20	.80	.45
Watson's Independent Child's Speller ..	.18	.25	.15	.10
Swinton's Word Book	.20	.25	.15	.10
Monteith's Elementary Geography.....	.55	.65	.45	.30
Monteith's Comprehensive Geography..	1.20	1.45	.90	.45
Robinson's First Book in Arithmetic....	.20	.25	.15	.10
Robinson's Complete Arithmetic.....	.75	.90	.60	.40
Sill's Practical Lessons in English.....	.60	.75	.50	.35
Barnes' Brief History of the U. S	1.00	1.20	.80	.60
The Spencerian Copy Books, each	.10	.15	.....	.....

List of prices to be posted.

SEC. 6. Whenever the publishers of the books hereby adopted shall have filed their bond, as hereinbefore provided, it shall be the duty of the Territorial superintendent of public instruction to cause all prices of the

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text books, as guaranteed by the publishers, to be properly printed and distributed, through the county superintendents, to the trustees of the several school districts, who shall cause the same to be kept constantly posted in a conspicuous place in each school room in their district; and it shall be the duty of the several county superintendents to keep themselves informed as to whether such prices are actually maintained by the said publishers; and in case of failure, to at once notify the Territorial superintendent, who shall then proceed as hereinbefore provided.

Forfeiture for using other books.

SEC. 7. Any school district which shall, after the first day of July, 1882, use other text books than those legally adopted for the same studies, shall forfeit twenty-five per centum of the county fund apportioned to it, and the sum so forfeited shall be reapportioned among the other school districts of the county which shall have complied with this act.

Duty of officers

SEC. 8. All school officers and teachers are charged with the execution of this law, and the county school superintendents shall require the trustees of the several school districts, or the clerks thereof, to report annually whether the authorized text books are used in their schools.

Other books.

SEC. 9. The publishing houses with which contract is made for furnishing the school books herein adopted, shall furnish, at the same discount from the wholesale list of prices, all supplementary and high school books which may be required by trustees and other school officers throughout the Territory, and which are published by said houses or either of them.

SEC. 10. The legislature may at any time alter or repeal this act.

APPROVED February 23, 1881.

VAGRANCY.

AN ACT concerning vagrancy.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Who deemed a vagrant.

SECTION. 1. Every idle and dissolute person, without visible or known means of living, who has the physical ability to work, and who does not for the space of ten days make proper inquiry for, and use due diligence to seek employment, nor labor when employment is offered to him; also, every healthy beggar who solicits alms as a business; also, every person who makes a practice of going from house to house begging food, money, or other articles, or seeks admission to such houses upon frivol-

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ous pretexts; every lewd and dissolute male person who lives in and about houses of ill-fame; also, every lewd and dissolute female person known as a "street walker," or common prostitute, who shall, upon the public streets or in and about any public place or assemblage, or in any saloon, bar-room, club-room, or any other public or general place of resort for men, or anywhere within the sight or hearing of ladies or children, conduct or behave herself in an immodest, drunken, indecent, profane or obscene manner, either by action, language, or improper exposure of her person; every common drunkard who is in the habit of lying around the streets, alleys, sidewalks, saloons, bar-rooms, or other public places in a state of gross intoxication, upon conviction thereof, shall be deemed a vagrant, and punished as hereinafter provided.

May be required to labor.

SEC. 2. All male persons having the physical ability to work, convicted of vagrancy and imprisoned on judgment therefor, may be required to perform labor on the public works, buildings, grounds, or ways in the county, and the sheriff or other person or persons having them in charge while performing such labor may, in his discretion, employ any usual, reasonable, humane, and sufficient means to guard against and prevent such persons escaping from custody while being so employed.

Credit therefor.

SEC. 3. For each and every day's work willingly and faithfully performed by such vagrant, he shall receive credit for two days' time, which shall be by the sheriff applied upon and deducted from his term of imprisonment.

Punishment for refusal.

SEC. 4. If any imprisoned vagrant convicted under this act, having the physical ability to work, and refuse to work when required so to do, as herein provided, he may, as a punishment, be forced to work by being compelled to pack sand, or any other material and weight, from place to place, or to perform other labor not unreasonable, inhumane, or too burdensome, until he declares himself willing to work and does work as required; or in lieu thereof, he may, in the discretion of the sheriff, be confined in the cell of the jail and fed upon no other food except bread and water, until he declares himself ready to work, as required herein; but both methods of punishment herein prescribed shall in no instance be inflicted at the same time.

Sheriff's duty.

SEC. 5. It shall be the duty of the sheriff, during fair and reasonable weather, when the same can be done without extra expense to the county, to procure employment for and set at work such convicted vagrants who are serving out their term of imprisonment.

Penalty for vagrancy.

SEC. 6. All persons violating any of the provisions of section 1 of this act shall be punished by imprisonment in the county jail for a term not exceeding thirty days for a first offence, and not exceeding ninety days for each subsequent offence.

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Incorporations may punish.

Sec. 7. Nothing in this act shall be construed as depriving any incorporated town, or city, incorporated under the laws of this Territory, from punishing vagrancy.

APPROVED February 22, 1881.

WARRANTS—DUPLICATES.

AN ACT to provide for the issuing of duplicate county warrants in certain cases.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Duplicate may be issued on proof, etc.

SECTION 1. The boards of county commissioners of their respective counties in the Territory of Montana, are hereby authorized and empowered, upon satisfactory proof to them that any original bond, warrant or coupon of their respective counties has been lost or destroyed, to issue to the owner or holder of such bond, warrant or coupon, a duplicate thereof, which shall take the place in order of registration and payment of such original bond, warrant or coupon, and shall in all cases supercede and take the place of such original.

Security bond required.

SEC. 2. Before issuing such duplicate bond, warrant or coupon, the county commissioners shall require the person or persons demanding the same to execute and deliver to the treasurer of the county a bond, payable to whomsoever it may concern, in double the amount of the bond, warrant, or coupon, with at least two good and sufficient sureties, who shall be required to justify as in case of attachment, the conditions of such bond being that the principal and sureties therein will indemnify and save harmless the county from all loss, cost or damages by reason of the issuing of such duplicate, and will pay to any person entitled to receive the same, as the lawful holder of the original bond, warrant or coupon, all moneys received upon such duplicate.

How duplicate marked.

SEC. 3. The chairman of the board of county commissioners at the time of issuing any duplicate bond, warrant or coupon, shall write across or upon the face thereof the word "duplicate," in red ink, in a conspicuous and legible manner.

Mark imparts notice.

SEC. 4. The word "duplicate" upon any bond, warrant or coupon, as provided in section three of this act, shall impart notice to all persons that the same is issued subject to the provisions of this act.

Holder of original protected.

SEC. 5. It shall be the duty of any county treasurer, upon the production to him of any original bond, warrant or coupon, by the lawful owner or holder thereof, to assign by endorsement, and to deliver to him, the bond mentioned in section 2 of this act; and such owner or

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holder may maintain an action in his own name upon such bond for the recovery of any moneys paid upon such duplicate; but the delivery of said bond shall not relieve or exonerate the county from the payment of the amount specified therein, upon a demand and refusal of the sureties named in the indemnifying bond to pay the same.

Duty of commissioners to issue duplicate; when.

SEC. 6. In case any county bond, warrant or coupon, issued prior to the passage of this act, shall be lost or destroyed, it shall be the duty of the county commissioners of their respective counties, upon satisfactory proof thereof, and the execution and delivery of a bond, in the manner and conditions as provided in section 2 of this act, to issue a duplicate thereof, which duplicate shall take the place, in order of registration and payment, of such lost or destroyed bond, warrant or coupon, and the provisions of this act shall apply thereto.

SEC. 7. This act shall take effect from and after its passage.

APPROVED February 4, 1881.

WARRANTS—RATE OF INTEREST.

AN ACT to establish the rate of interest on Territorial and county warrants.

Be it enacted by the Legislative Assembly of the Territory of Montana.

SECTION 1. That sections 620 and 638, of the fifth division of the Revised Statutes be amended so as to read as follows:

Territorial warrants to bear six per cent. interest.

SECTION 620. That all Territorial warrants issued by the proper authorities of this Territory, after the first day of March, A. D. 1881, shall draw interest at the rate of six per centum per annum, from and after the date of their presentation, until there are funds to pay said warrants in the hands of the Territorial treasurer.

County warrants to draw seven per cent. interest.

SECTION 638. That all county warrants that may be drawn after the first day of March, A. D. 1881, by the proper authorities of any county, after having been presented to the county treasurer of the respective counties of this Territory, and by them endorsed, "Not paid for want of funds in the treasury," from and after said date of presentation and endorsement, shall draw interest at the rate of seven per centum per annum: *Provided*, That the provisions of this section shall not apply to the county of Missoula in this Territory.

APPROVED February 7, 1881.

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SPECIAL LAWS.

AN ACT to create the county of Silver Bow, and for the election of officers thereof.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That all that portion of the county of Deer Lodge, Montana Territory, lying and situate south and east of the following line, to-wit: Beginning at the point where the first standard parallel north of the base line, according to the government survey of the public lands for Montana Territory, crosses the eastern boundary of said Deer Lodge county; thence west along said first standard parallel, north of said base line, to the point where said parallel intersects the Deer Lodge guide meridian according to said government survey; thence south six miles, more or less, to the south-east corner of township No. 4, north of range No. 10 west of the principal base and meridian for Montana Territory; thence west to the western boundary of said Deer Lodge county, be, and the same is hereby, erected into a new county, which shall be known and called Silver Bow county. That the town of Butte, situate within the boundaries south of the line mentioned, shall be the county seat of the county of Silver Bow. All laws of a general nature, applicable to the several counties of this Territory and the officers thereof, are hereby made applicable to the county of Silver Bow and the officers who may hereafter be elected or appointed therein, except as otherwise provided in this act.

SEC. 2. That the indebtedness of the county of Deer Lodge, as the same shall exist on the first day of March, A. D. 1881, shall be apportioned between said county and the county of Silver Bow, by first deducting from said indebtedness all money on hand in the treasury of said county of Deer Lodge, and all moneys belonging to said county in the possession or under the control of the county treasurer; also deducting the cost of the county jail as shown by the books of the county commissioners; the remainder of the indebtedness shall be divided between said counties in proportion as the taxable property in each county bears to the entire taxable property of the present county of Deer Lodge, taking as a standard thereof the assessment for the year 1880.

SEC. 3. The county commissioners of Deer Lodge and Silver Bow counties shall meet at the court house in the town of Deer Lodge, on the first Monday in March, A. D. 1881, to adjust the indebtedness between said counties upon the basis named in section 2 of this act. When adjusted, if the county of Silver Bow shall be liable for any part thereof, it is hereby made the duty of the county commissioners of said last named county, to cause to be issued to the county commissioners of Deer Lodge county a warrant or warrants therefor, which in the aggregate shall equal the amount of said indebtedness for which the county of Silver Bow shall, under the adjustment mentioned, be

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liable; and the said warrant or warrants, if not paid on presentation to the treasurer of Silver Bow county, shall be by said treasurer endorsed, "Not paid for want of funds in the treasury," and shall thereafter bear like interest as other county warrants, endorsed in like manner, issued prior to March 6, 1881. If the county of Silver Bow, upon said adjustment, shall be entitled to any portion of the funds on hand in the county of Deer Lodge, it shall be the duty of the county commissioners of the latter county to cause to be issued like warrants for the amount thereof to the county commissioners of Silver Bow county, which warrant or warrants, if not paid on presentation to the treasurer of Deer Lodge county, shall be endorsed by said treasurer in like manner as in the former case, and after said endorsement shall bear a like rate of interest.

SEC. 4. An election shall be held in the county of Silver Bow on the first Monday in April, in the year 1881, at the different precincts and voting places appointed at the last general election, for the election of the following officers, to-wit: One sheriff, one probate judge, one county clerk, one assessor, one county treasurer, one county surveyor, one coroner, one county superintendent of schools, and three county commissioners. The persons severally elected to said offices, except the county commissioners, shall hold office until the next general election in the year 1882, and until their successors are elected and qualified. The county commissioner receiving the highest number of votes at said election shall continue in office until the general election in 1886; the one receiving the next highest number until the general election in 1884, and the one receiving the next highest until the general election in 1882. Said several commissioners shall continue in office until their several successors are elected and qualified. If two or more persons voted for as commissioners at said election receive an equal number of votes, the terms of office of the commissioners between whom such tie exists shall be determined by lot, under the direction of the commissioners mentioned in the next section.

SEC. 5. That Lee W. Foster, William M. Jack and J. Ross Clark are hereby appointed commissioners of Silver Bow county, with like powers and duties as by law are conferred upon county commissioners in other counties of this Territory; said persons, before entering on their duties, shall severally give the bond and take the oath required of county commissioners. Said bonds shall be filed with the Territorial auditor, and thereafter said persons named shall enter on their duties as commissioners, and shall continue in office until their successors are elected and qualified, as provided in section 4 of this act.

SEC. 6. That in addition to the duties required under the general law relating to the manner of conducting elections, the commissioners named shall, for at least one month prior to the time of holding said election, give notice of the same in some newspaper published within the limits of Silver Bow county; said notice shall state the time of holding said election, the different voting places and the offices for which votes shall or may be cast.

SEC. 7. Upon receiving a certificate of election from the commissioners mentioned, the persons so elected or receiving said certificates shall, without delay, qualify in the manner required by law and enter upon the discharge of the duties of the several offices to which they

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may be respectively elected; but nothing herein shall be construed as depriving any candidate voted for at said election from contesting the right of office in the method prescribed by law.

SEC. 8. The county commissioners of Silver Bow county shall, at their first regular meeting after the passage of this act, and after being elected and qualifying, decide upon and levy the rate of taxation in said county for the year 1881, which levy shall be in conformity with the general law relating to the manner and amounts of taxes authorized to be levied. Said commissioners shall also have power and authority to contract for transcribing such parts of the public records of Deer Lodge county as they may deem useful and necessary to the county of Silver Bow and its inhabitants, and for this purpose shall have suitable access to the records of Deer Lodge county. Said records when completed shall be carefully compared with the originals by the county clerk of Deer Lodge county, and if correct he shall certify to their correctness under his official seal, and thereafter the copies of said records so transcribed and certified to shall be admitted and received in evidence in all courts of law in this Territory, and shall be in all other respects entitled to like faith and credit as said original records. The county clerk of Deer Lodge county shall receive for his services in comparing and certifying the correctness of the copy of said records, six dollars per diem while engaged in said labor, which amount shall be paid by the county of Silver Bow on the completion thereof.

SEC. 9. All township and precinct officers, road supervisors, officers of school districts, and other officers of every kind within the county of Silver Bow, whose election is not herein provided for, shall or may continue to hold said offices, and exercise the duties pertaining thereto, until the expiration of the term for which said officers were respectively elected or appointed. Whenever district courts are appointed for said county, the clerk or deputy, as the case may be, shall, from the time he enters on his duties, be paid for his public services to be rendered said county and the officers thereof, as provided in sections 1 and 2 of an act entitled "An act to provide compensation for the clerks of the the district courts," approved July 22, 1879, an annual salary of eight hundred and twenty-five dollars, payable in quarterly payments by warrants drawn on the contingent fund of said county, and shall, in addition to said salary, be entitled to the fees prescribed in said act. The county clerk and recorder of said county shall receive for his services, as defined in section 1 of "An act in relation to the fees of county clerk," approved July 22, 1879, a salary at the rate of seven hundred dollars per annum, payable quarterly, by warrant on the general fund of said county, and payable as other warrants are paid. Said officer shall also be entitled to the fees prescribed by law for recording deeds and other instruments, and for all other services rendered by him. The fees and emoluments of all officers of said county shall be as prescribed by law, when not otherwise provided for in this act.

SEC. 10. The county of Silver Bow, and all persons in its name, are hereby prohibited from contracting any indebtedness whereby said county shall become bound in any sum which shall, at the time of contracting the same, exceed two and one-half per cent. of the assessed value of the taxable property of said county, taking the last previous assessment thereof as the standard of valuation, and no cause of action shall lie against said county for any indebtedness contracted in

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its name above the limitation mentioned, however the same may be evidenced; but nothing herein contained shall deprive the holder of any indebtedness contracted in the name of, or on the behalf of, said county from a right of action against the person or persons who actually contracted the same, or who received a consideration therefor.

SEC. 11. This act shall take effect from and after its passage; but the county of Silver Bow shall remain united to the county of Deer Lodge for judicial purposes until the first of May, A. D. 1881, and the officers of Deer Lodge county shall also act as officers of Silver Bow county until the date above named, except as otherwise provided in this act.

APPROVED February 16, 1881.

AN ACT in relation to the construction of the laws applicable to the county of Silver Bow.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That wherever in the laws of this Territory the words Deer Lodge county occur, and by the terms of the law it is applicable to the county of Silver Bow, or any officer thereof, said laws shall be construed as applicable to the county of Silver Bow and the officers thereof, as if they had been specially named in said act.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED February 23, 1881.

AN ACT with reference to the office of sheriff of Deer Lodge county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That an act entitled "An act to create the county of Silver Bow, and for the election of officers thereof," approved February 15, A. D. 1881, shall not be so construed to deprive Lou. P. Smith, the present sheriff of Deer Lodge county, of his office as such sheriff, until the next general election and his successor is duly qualified: *Provided,* He shall become a resident of said county of Deer Lodge on or before the first day of May, 1881.

SEC. 2. That all acts and parts of acts in conflict with this act be, and the same are, hereby repealed.

APPROVED February 19, 1881.

AN ACT to provide for the bonding of certain outstanding warrants of Missoula county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. It shall be the duty of the board of county commissioners of the county of Missoula to issue bonds for all outstanding warrants against the treasury of said county, and payable out of the general fund thereof, issued prior to the passage of an act entitled "An act to provide for the payment of the indebtedness of Missoula county," approved January 24, 1876, as provided by this act.

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SEC. 2. Whenever the holder or holders of any warrant so issued as aforesaid shall desire to bond the same, and shall present and surrender the same for cancellation in the manner provided by this act, it shall be the duty of the board of county commissioners of said county to issue to such person or persons coupon bonds in lieu of said warrants and the interest due thereon, which bonds shall draw interest from the date of the issuance thereof at the rate of five per cent. per annum, said interest to be paid semi-annually by the county treasurer of said county out of any moneys in his hands applicable to the payment thereof, at the office of the said county treasurer, or in the city of New York, as the holder or holders of said bonds may elect.

SEC. 3. The coupon bonds authorized and required to be issued by this act shall be in the usual form for such bonds; shall be signed by the chairman of the board of county commissioners and the county treasurer, and shall be sealed and countersigned by the county clerk. The coupon bonds provided for in this act shall likewise be in the usual form, attached to said bonds, and bear the signature of the chairman of the board of county commissioners and treasurer, and countersigned by said clerk.

SEC. 4. Each bond issued under the provisions of this act shall be registered by the county treasurer of said county, in a book to be kept by him for that purpose, which shall show the amount of each bond, to whom issued, and the date of the issuance thereof. All warrants presented to the county commissioners, and in lieu of which bonds shall have been issued under the provisions of this act, shall be cancelled in the same manner that the same are now cancelled under the general laws of this Territory, and the said commissioners shall preserve, in a book to be kept for that purpose, a correct description of the warrant so cancelled, or to be cancelled, showing the date and amount thereof, to whom issued, the amount of interest due thereon at the date of such cancellation and redemption, in pursuance of the provisions of this act.

SEC. 5. All bonds issued under the provisions of this act shall be of the denominations of fifty dollars, one hundred dollars, and five hundred dollars; and the holder or holders thereof may, at his or their election, have the same issued of one or different denominations, and if any county warrants, or any amount thereof, which may be bonded under the provisions of this act, shall be of a less amount than any bond he or they may be entitled to have issued, or which may be issued in pursuance hereof, the holder or holders of such warrants shall make up the balance in money, so as to equal the amount of the face of the bond to be issued, which money shall be paid into the county treasury and be credited to the fund provided for the payment of the interest due, or to become due upon the coupon bonds issued under the provisions of this act.

SEC. 6. All bonds issued under the provisions of this act shall be made due and payable fifteen years from the date thereof, but shall be redeemable at the pleasure of said county at any time after the expiration of three years from the date of their issuance, and the faith of the said county of Missoula is solemnly pledged for the payment of the interest on and redemption of the principal of the coupon bonds issued in pursuance of the provisions hereof; and for the purpose of

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carrying this act into effect, the board of county commissioners of said county are hereby required to cause to be printed, or lithographed, suitable bonds with coupons attached, which shall be paid for out of the current expense fund of said county.

SEC. 7. The board of county commissioners shall, and it is hereby made their duty, at their first regular meeting in January, A. D. 1882, to levy a sufficient tax upon all the taxable property in said county, to be ascertained from the assessor's list for the preceding year, to pay the coupons upon any bonds issued under the provisions of this act which may become due and payable during the year 1881 and the year 1882. At their first regular meeting in January of each year, it is hereby made their duty, in like manner, to levy a sufficient amount to meet the semi-annual installments of interest upon said coupon bonds as said coupons shall become due and payable, all of which shall be ascertained from the assessor's list for the year next preceding such levies.

SEC. 8. All taxes for the payment of coupons under the provisions of this act shall be levied and collected in the same manner that the other taxes are levied and collected for said county, and it is hereby made the imperative duty of the officers charged therewith to faithfully and fully carry out the provisions of this act; and the tax so collected to pay said coupons, shall be, and is hereby, set apart as a special and separate fund for such purpose, which shall be designated as "special fund for payment of coupons of Missoula county bonds."

SEC. 9. The treasurer of said county shall pay the interest as it shall fall due upon said bonds out of the fund aforesaid, upon the presentation to him of the proper coupons therefor, which said coupons when so paid shall be returned by said treasurer to the board of county commissioners at his next settlement with them after such payment, and said commissioners shall cancel the same in the manner now provided for the cancellation of county warrants; and all bonds issued in pursuance of this act which shall be paid or redeemed by said county shall be cancelled in like manner.

SEC. 10. Any officer or officers willfully violating the provisions of this act shall, upon conviction thereof, be fined in a sum not exceeding five thousand dollars, or punished by imprisonment and confinement to hard labor in the penitentiary not exceeding five years, in the discretion of the court.

SEC. 11. All acts and parts of acts conflicting with this act are hereby repealed.

SEC. 12. This act shall take effect and be in force from and after its passage.

APPROVED February 19, 1881.

AN ACT to provide for the refunding of the outstanding ten per cent. bonds of Meagher county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the commissioners of Meagher county, Montana Territory, are hereby authorized and empowered to issue on the credit of said county, coupon bonds to an amount not exceeding twenty-seven thousand dollars, or so much thereof as may be necessary to redeem

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all of the outstanding ten per cent. bonds heretofore issued by said county, together with the interest remaining unpaid thereon, which bonds shall be redeemable at the pleasure of said county after three years from their date, and shall become due and payable ten years from their date, and bear interest at a rate not exceeding seven per cent. per annum.

SEC. 2. The bonds authorized to be issued by this act shall be in such form as the said commissioners may direct, and shall bear the signatures of the chairman of the board of county commissioners and the treasurer of said county, and shall be sealed and countersigned by the clerk of said county; and the coupons attached to the bonds shall be signed by the chairman of said board, the treasurer of the county, and the county clerk; and each bond issued shall be registered by the county treasurer in a book provided for that purpose; and it shall show the number and amount of each bond, and to whom issued; and the said bonds shall be sold by said county commissioners, or their lawfully authorized agents, at not less than their par value, or the face thereof, as hereinafter provided.

SEC. 3. The said county commissioners shall, as soon as practicable after the passage of this act, give notice by advertisement in one weekly newspaper published in this Territory, and one daily newspaper published in the city of New York, for a period of not more than four weeks, to the effect that the said county commissioners will sell said bonds (briefly describing the same), and stating the time when such sale will take place; and all moneys arising from the sale of said bonds shall be paid into the treasury of said county to the credit of the sinking fund, and shall immediately thereafter be applied to the payment of the outstanding ten per cent. bonds of said county and the unpaid interest thereon.

SEC. 4. All bonds authorized to be issued by this act shall be of the denominations of one hundred, five hundred, and one thousand dollars; and the faith of the said county of Meagher is hereby pledged for the payment of the interest and the redemption of the principal of said bonds.

SEC. 5. The treasurer of said county shall pay in lawful money of the United States, at the expiration of six months from the date of the issue of each bond, the interest due thereon, and semi-annually thereafter, upon presentation at his office of the proper coupon, which shall show the amount due and the number of the bond to which it belonged, and all coupons so paid shall be reported to the said commissioners at the first meeting thereafter; but in case the holder or holders of the said bonds shall give the treasurer notice in writing that they wish the bonds so held by them, and the interest accruing thereon, to be paid at a designated bank in the city of New York, then the said bonds and coupons shall be payable in said city of New York, otherwise the said bonds and coupons shall be payable at the office of the said county treasurer.

SEC. 6. It shall be the duty of said county commissioners to cause to be set aside forty per cent. of all moneys collected by said county, or received into the treasury thereof, for the purpose of defraying county expenses, or as much thereof as may be necessary, to pay the interest on the bonds named in section 1 of this act, or any other bonds that said county commissioners may be authorized to issue.

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SEC. 7. If at any time before the expiration of three years from the date of said coupon bonds there shall accumulate in the sinking fund of said county the sum of one hundred dollars or more, and as often as the same may occur, the treasurer of said county shall purchase from the holder or holders of the said coupon bonds, at not exceeding their par value, such bonds as he may have money in the sinking fund applicable to such purpose to purchase or redeem; and the treasurer of said county shall cancel all bonds so purchased or redeemed, and all bonds purchased or redeemed under the provisions of this act, by writing across the face of such bond or bonds, in red ink, the word "redeemed," and the date of such redemption.

SEC. 8. If any person or persons shall falsely make, forge, counterfeit or alter, or cause, or procure to be falsely made, forged, counterfeited or altered, or shall willfully aid or assist in falsely making, forging, counterfeiting or altering any bond or coupon authorized to be issued under this act, or shall pass, utter, publish or sell, or shall have or keep in possession, or conceal with intent to utter, publish, or sell any such false, forged, counterfeited, or altered bond or coupon, with intent to defraud anybody, corporate or politic, or any other person or persons whatsoever, every such person so offending shall be deemed guilty of felony, and shall, upon conviction thereof, be punished by fine not exceeding five thousand dollars, and be imprisoned and confined at hard labor in the penitentiary not exceeding fifteen years.

SEC. 9. This act shall take effect and be in force from and after its passage.

APPROVED February 21, 1881.

AN ACT to provide for the funding of the outstanding indebtedness of the county of Custer.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. The board of county commissioners of the county of Custer are hereby authorized and empowered to issue, on the credit of said county, coupon bonds in such amount as may be necessary for the purpose, not to exceed in the aggregate the sum of fifty-five thousand dollars, to sell the same as hereinafter provided, and cause the proceeds thereof to be applied in payment of the outstanding indebtedness of said county, as represented by warrants legally drawn against the general fund of said county prior to the date of the issue of said bonds.

SEC. 2. The bonds authorized to be issued by this act shall be in such form as the said board of county commissioners may direct. They shall be of the denominations of one hundred, five hundred, and one thousand dollars each, and shall be redeemable at the pleasure of said county after five years from their date, and shall become due and payable ten years from the date of their issue. They shall bear interest at the rate of seven per centum per annum, which interest shall be payable semi-annually by the county treasurer of said county, upon surrender of the respective coupons therefor. Each bond so issued shall be signed by the chairman of the board of county commissioners and the treasurer of said county, and shall be countersigned by the

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county clerk, and authenticated by the seal of said county. Each of said bonds shall be to the effect that said county owes the holders thereof the sum stated on the face of the bond, payable and bearing interest as aforesaid; and there shall be attached thereto interest coupons, each of which shall be signed by the chairman of the board of county commissioners, and countersigned by the county clerk of said county. The said bonds and coupons shall be made payable at such place, to be designated therein, as the said board of county commissioners may determine to be for the best interest of said county, either in the city of New York in the State of New York, in the city of St. Paul in the State of Minnesota, or at the office of the county treasurer of said county.

SEC. 3. The said bonds shall be issued on or before the first day of July, A. D. 1881, in such amount, not exceeding the said sum of fifty-five thousand dollars, as may in the judgment of said board of county commissioners, be necessary to pay the outstanding warrants, legally drawn against the general fund of said county at the time of such issue. The said bonds shall be sold to the highest bidder or bidders therefore, as provided herein. Before selling the same, the said board of county commissioners shall cause a notice to be published, at least once in each week, for a period of at least six weeks, in at least one newspaper published in the city of New York, and in one newspaper published in the city of St. Paul, in the State of Minnesota, and also in one newspaper published in said Custer county, stating the time and place of sale of the said bonds, and inviting sealed proposals for the purchase thereof. On the day and hour named in said notice, the said board shall open all such proposals received by them, and shall award the purchase of said bonds to the highest responsible bidder or or bidders: *Provided,* That said board may reject any and all bids: *And provided further,* That none of said bonds shall be sold at less than ninety-three cents on the dollar of their par value. If from any cause the whole of said bonds offered be not sold on said day of sale, then the said board may again advertise for proposals, and sell the remainder thereof in the manner above provided; or, the said board may in its discretion, at any time after said bonds have been offered for sale as aforesaid, negotiate and sell said bonds at private sale, if in the opinion of the board the interest of said county will be subserved thereby; but the same shall not be so sold at a price less than the highest responsible bid therefor; nor shall the said bonds, or any of them, in any case be sold by said board at a price less than ninety-three per cent. of their par value.

SEC. 4. All warrants drawn on the general fund of said county prior to the issue of said bonds, shall be received at par in payment of bids for the purchase of said bonds. When such warrants are offered in payment of any of said bonds, and before the delivery of said bonds to the purchasers, the interest due upon said warrants shall be computed, and written upon the face of each warrant by the county clerk of said county, and all moneys and warrants derived from the sale of said bonds, shall be immediately paid into the county treasury of said county, and the county treasurer shall give duplicate receipts therefor, one of which he shall deliver to the chairman of the board of county commissioners, and the other of which he shall file with the

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county clerk, who shall charge the treasurer with the amount thereof; and all warrants so received shall be cancelled in the same manner as if the same had been redeemed by the said treasurer in cash. All moneys derived from the sale of said bonds shall be set apart and known as the "bonded debt fund," and shall without delay be applied in the payment and redemption of the warrants of said county outstanding against the general fund thereof prior to the issue of said bonds, and to no other purpose: *Provided, however,* That the moneys remaining in said fund after the payment and redemption of said warrants, if any there be, shall be transferred to the general fund of said county.

SEC. 5. The faith of the said county of Custer, and of any county which shall hereafter be created and organized out of any part of the Territory thereof, is hereby pledged for the payment of the interest and principal of the bonds issued in pursuance of this act. The board of county commissioners of said county is hereby empowered and directed, from and after the passage of this act, to levy annually at the time and in the manner provided by the general revenue laws of this Territory, for county purposes, a tax on the assessed valuation of the property of said county, sufficient to pay the interest on said bonds; and on and after the year 1886, and annually thereafter, a further sum sufficient to pay in addition to said interest, one-fifth part of the principal amount of said bonds, until they shall have been fully paid and satisfied; and the said board of county commissioners is hereby required to set apart of the funds so raised an amount sufficient to pay the said interest, and also on and after the year 1886, and until said bonds shall have been fully paid, a sum sufficient to redeem and pay in each year, one-fifth part of the principal amount of said bonds; and the funds so set apart shall not be used for any other than the purpose provided herein. If the tax levied and collected under this section shall at any time prove insufficient to pay the coupons due, the board of county commissioners shall make up the deficiency out of the general fund.

SEC. 6. Whenever there shall be five hundred dollars or more in the sinking fund, provided for in the preceding section, over and above the amount required for the payment of coupons due, the treasurer of said county shall cause a notice to be published once a week for four successive weeks, in some newspaper published in said county, and also in some newspaper published in the place where said bonds are payable, if the same are made payable at a place other than the office of said treasurer, which notice shall state that said treasurer is prepared to redeem, on a day stated therein, bonds to the amount of said surplus fund, and that until said day he will, at his office, receive sealed proposals for the surrender of bonds issued under this act. At the time specified, he shall open such proposals, and shall redeem such bonds as may be offered at the lowest price: *Provided,* That no bid above par shall be accepted. If no bid shall be made at par or less, or if a sufficient amount of bonds be not offered to absorb such surplus fund, then such surplus fund shall be used for the redemption of said bonds, according to the number of their issue, of which the county treasurer shall give the notice now provided by law, and from the date of said notice the bonds proposed to be redeemed shall cease to draw

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interest; and if any such bonds shall not be presented within sixty days from the date of such notice, the said treasurer shall apply the money for the redemption of bonds next in order of the number of their issue.

SEC. 7. All of said bonds and coupons paid by the county treasurer of said county, shall be returned by him to the board of county commissioners at his next settlement after such payment, and the said board of county commissioners shall cancel said bonds in the manner provided by law for the cancellation of county warrants.

SEC. 8. The said board of county commissioners, at the time said bonds are issued, shall cause to be recorded by the county clerk in a book provided for that purpose, the number and amount of each bond, the date thereof, the name of the person to whom issued, the amount received thereon, and the actual time of issuing the same; and it shall be the duty of said board of county commissioners, at the time when said treasurer returns said bonds and coupons, to cause to be entered in said book, opposite to the entries hereinbefore provided for, in appropriate columns, the date of the redemption of each of said bonds, the name of the person from whom redeemed, the amount paid on such redemption, the date of the cancellation thereof, the several amounts of interest paid thereon, the dates of payment, to whom paid, and the date of the cancellation of the several coupons therefor; and the said county commissioners shall compare the bonds and coupons returned with the entries made in said book at the date of their issue.

SEC. 9. The treasurer of said county, whose duty it shall be to receive and pay out the funds in this act provided, shall, before entering on the discharge of said duties, execute to the board of county commissioners of said county a bond with two or more sufficient sureties, to be approved by said board, and in the penal sum of not less than $25,000, as said board may direct, to the effect that he will faithfully discharge all the duties required of him, and will pay out and properly account to said board of county commissioners for all moneys which may come into his possession by virtue of the provisions of this act, which bond, with the approval of the board endorsed thereon, shall be filed in the office of the county clerk of said county.

SEC. 10. The treasurer shall be entitled to receive as full compensation for receiving and disbursing all moneys, and in full payment of all services required of him by the provisions of this act, one-half of one per cent. of the amount thereof, anything in the acts prescribing the fees of county treasurers to the contrary notwithstanding.

APPROVED February 21, 1881.

AN ACT to provide for the redemption of the funded debt of Lewis and Clarke county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the commissioners of Lewis and Clarke county are hereby authorized and empowered to issue, on the credit of said county, coupon bonds to an amount sufficient to enable them to redeem all outstanding bonds of said county that are redeemable, or may become redeemable in the year of 1881; which said bonds shall be redeemable at the pleasure of said county after five years from their date, and hall become due and payable fifteen years from their date.

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SEC. 2. Said bonds shall be of the denomination of five hundred and one thousand dollars each, and shall bear interest at the rate of seven per cent per annum. They shall be in such form as the commissioners may direct, and they shall be signed by the chairman of the board of county commissioners and the treasurer of said county; they shall also be sealed and countersigned by the clerk of said county. The coupons attached to the bonds shall be signed by the chairman of said board, the treasurer of the county and the county clerk. Each bond issued shall be registered by the said county treasurer in a book provided for that purpose; and such registration shall show the number and amount of each bond, and when and to whom issued.

SEC. 3. The commissioners of Lewis and Clarke county are hereby authorized and required, and it is hereby made their duty, to sell, in a manner hereinafter provided, a sufficient amount of seven per cent. bonds of Lewis and Clarke county to enable them to redeem all of the ten per cent. bonds of said county now outstanding and unpaid. That at any time the county commissioners may select, they shall give notice by advertisement in one or more daily newspapers published in said county of Lewis and Clark, and in one or more weekly newspapers published in the city of New York, in the State of New York, for a period of not less than thirty days prior to the time said bonds are to be sold; such advertisement shall be for sealed proposals, which proposals shall state the amount of such bonds wanted, and the party or parties offering the highest price shall receive the amount of such seven per cent. bonds as such party or parties may want: *Provided*, That no bonds shall be sold for any less price than the par value thereof.

SEC. 4. The treasurer of said county shall pay, in lawful money of the United States, at the expiration of six months from the date of the issue of each bond, the interest due thereon, and semi-annually thereafter, upon presentation at his office of the proper coupon which shall show the amount due, and the number of the bond to which it belongs; should the holder or holders of said bonds, to an amount not less than five thousand dollars, give the said treasurer notice in writing that they desire the bonds so held by them and the interest accruing thereon to be paid at a designated national bank in the city of New York, State of New York, then the said bonds and coupons so held by such person or persons shall be payable at such bank in the city of New York, State of New York. All coupons so paid shall be reported to the said county commissioners at their first meeting thereafter.

SEC. 5. The proceeds of the sale of such bonds shall be paid into the county treasury of said county, and shall be applied to the payment of the ten per cent. bonds of said county, now outstanding and unpaid, in the order in which said bonds become due.

SEC. 6. The treasurer shall register in a book to be kept by him for that purpose, which book shall show the amount of the bond, its number and date, when and to whom issued, and when and from whom redeemed. Said treasurer shall also write across the face of said bond in red ink the word "redeemed," with the date of such redemption, and shall subscribe his name thereto; he shall also cancel said bonds with a cancelling stamp at the time of redemption.

SEC. 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

APPROVED February 22, 1881.

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AN Act to authorize the refunding of the outstanding bonded indebtedness of Madison county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the county commissioners of Madison county in this Territory shall have power, and are hereby authorized, to call in and redeem the outstanding bonded indebtedness of Madison county aforesaid, whensoever by the terms of said bonds and the provisions of law under which the same were issued, said bonds are made redeemable, and are authorized to issue coupon bonds in lieu thereof.

SEC. 2. All bonds that may be issued under the provisions of this act shall draw interest from the date of issuance thereof, at the rate of seven per centum per annum, said interest to be due and payable semi-annually on the first day of January, and on the first day of July of each year, by the county treasurer of said county, out of any moneys in his hands, at the office of said county treasurer, or in the city of New York, as the holder or holders of such bonds may elect.

SEC. 3. The coupon bonds authorized to be issued by this act shall be in such form as the said county commissioners may direct, and shall bear the signatures of the said county commissioners, and shall be sealed and countersigned by the county clerk. The coupons provided for in this act shall be attached to said bonds, and shall be in such form as the said county commissioners shall direct; and each coupon shall bear the signature of the chairman of said board of county commissioners, countersigned by the county clerk.

SEC. 4. Each bond issued under the provisions of this act shall be registered by the county treasurer of said county, in a book to be kept by him for that purpose, which book shall show the amount of each bond, to whom issued, and the date of the issuance thereof. All bonds and coupons that may be called in and redeemed under the provisions of this act and in lieu of which coupon bonds shall be issued in pursuance of this act, shall be cancelled by said commissioners in the same manner that county warrants are now cancelled under existing laws; and the said commissioners shall preserve, in a book provided for that purpose, a correct description of each bond and coupon cancelled, showing the date and amount of each bond, and the amount, principal and interest paid to redeem the same.

SEC. 5. All bonds issued under the provisions of this act shall be of the denominations of one hundred dollars and five hundred dollars, and each bond shall become due and payable in twelve years from the date of its issue, but shall be redeemable at the pleasure of said county at any time after the expiration of five years from the date of its issue.

SEC. 6. The faith of the said county of Madison is solemnly pledged for the payment of the interest and redemption of the principal of the bonds authorized to be issued by this act.

SEC. 7. To enable the said commissioners to carry into effect the provisions of this act, they are hereby authorized to cause to be printed, or lithographed, at the lowest cost, suitable bonds with coupons attached, and pay for the same out of any moneys in the county treasury of said county, not otherwise appropriated.

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SEC. 8. The said commissioners are also authorized, in order to raise funds necessary to redeem the outstanding bonds of said county, to sell at public or private sale, as in their discretion may be to the best interests of said county, a sufficiency of the bonds authorized to be issued by this act, to enable them to redeem all the said outstanding bonded indebtedness of said county and pay the interest that may have accrued on the same to the date of redemption thereof: *Provided*, None of said bonds shall be sold for less than the face thereof, and shall not draw a greater rate of interest than that mentioned in section 2 of this act: *And provided further*, That in case said bonds, or any portion thereof, shall be sold at public sale, the said commissioners shall cause to be advertised in a newspaper published in said county of Madison, for four weeks, a notice to the effect that they will sell at public sale the bonds authorized to be issued by this act to the highest bidder, stating in such notice the time and place of sale, and the amount and denomination of the bonds to be sold, and shall require bidders to send in their bids in writing addressed to the county clerk of said county, and to state in their written bids the amount of bonds desired and the amount they are willing to pay therefor. The said commissioners shall have the power to reject any and all of such bids in their discretion.

SEC. 9. Nothing in this act shall be so construed as to prevent the said commissioners from negotiating the sale of the bonds, authorized by this act to be sold, at private sale.

SEC. 10. When the said commissioners shall be prepared, under the provisions of this act, to redeem the outstanding bonded indebtedness aforesaid of said county, or any portion thereof, they shall give written notice to the holders of said bonds of their purpose to redeem the same, which notice shall specify the time and place of redemption thereof, and the number and amount of bonds proposed to be redeemed, and shall also cause the said notice to be published, in a newspaper published in said county, for four weeks; and at the expiration of the date fixed in said notice for redemption of said bonds the same shall cease to draw interest.

SEC. 11. It shall be the duty of the said county commissioners, at the proper times, to cause to be set aside a sufficiency of money collected by said county, or received into the treasury thereof, to pay the interest accruing on the bonds issued and sold under the provisions of this act.

SEC. 12. At any time after the issuance of the bonds authorized by this act, the county commissioners shall ascertain that there has accumulated in the county treasury of said county a sum of money exceeding one hundred dollars, not appropriated by law, or needed to meet the current expenses of said county, it shall be lawful for them to direct the treasurer of said county to purchase the bonds of said county to the extent of the funds so ascertained to be in the hands of said treasurer, and the said treasurer shall, with such accumulated funds, purchase bonds of said county at the lowest price, not exceeding a premium of three per centum, and shall report the same to the commissioners at his next settlement thereafter, and the said commissioners shall cancel the same as provided by law.

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SEC. 13. The treasurer of said county shall pay the interest as it falls due on the bonds herein authorized to be issued, on presentation to him of the proper coupons therefor; and all bonds and coupons which may be paid by said county treasurer shall be returned by the treasurer to the board of county commissioners at his next settlement with them after such payment; and the said commissioners shall cancel said bonds and coupons in the manner now provided by law for the cancellation of county warrants: *Provided*, That nothing in this act shall be so construed as to authorize the county treasurer to have, or receive, any compensation for receiving or disbursing any moneys arising from the sale of bonds under this act other than that which the said county commissioners shall, in their discretion, see proper to allow and pay him, not exceeding the sum of one hundred dollars.

SEC. 14. If any person or persons shall falsely make, forge, counterfeit or alter, or cause or procure to be falsely made, forged, counterfeited or altered, or shall willfully aid or assist in making, forging, counterfeiting or altering any bond or coupon authorized to be issued under the provisions of this act, or shall pass, utter, publish or sell, or attempt to pass, utter, publish or sell, or shall have or keep in possession, or conceal with the intent to utter, publish or sell any such forged, counterfeited or altered bond or coupon with intent to defraud anybody, corporate or politic, or any person or persons whatever, every such person so offending shall be deemed guilty of felony, and shall, upon conviction thereof, be punished by fine not exceeding ten thousand dollars, and by imprisonment and confiement at hard labor in the penitentiary not exceeding fifteen years, in the discretion of the court.

SEC. 15. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 16. This act shall take effect and be in force from and after its passage.

APPROVED January 28, 1881.

AN ACT to provide for the funding of the outstanding indebtedness of Choteau county, Montana Territory.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the board of county commissioners of Choteau county, Montana Territory, is hereby authorized and empowered to issue on the credit of said county coupon bonds to an amount not exceeding the sum of forty thousand dollars, or so much thereof as may be necessary to redeem all of the outstanding warrants heretofore issued by said county, together with the accrued interest thereon, which bonds shall be redeemable at the pleasure of said county after five years from their date, and shall become due and payable ten years after their date, and bear interest at a rate not exceeding seven per cent. per annum.

SEC. 2. The bonds authorized to be issued by this act shall be in such form as the board of county commissioners may direct, and shall be of the denominations of one hundred, and one thousand dollars; said bonds and the coupons thereto attached shall be signed by the

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chairman of the board of county commissioners and the clerk of said county. Each bond issued shall, at the date of its issue, be registered by the county clerk on the left hand page of a book provided for that purpose, and be known as the "Record of Bonds," which said book shall show on its left hand pages in suitable columns the number, date and amount of each bond, and to whom issued; and, on the right hand pages, the date of redemption, the amount of the bond redeemed, the amount of interest paid thereon, and the name of the person from whom redeemed. Said bonds shall be sold by the board of county commissioners, or the authorized agent or agents thereof, at not less than their par value as hereinafter provided.

SEC. 3. The said board of county commissioners shall, as soon as practicable after the passage of this act, give notice in not less than two weekly newspapers published in this Territory, and one weekly newspaper published in New York City, State of New York, for a period of not less than four weeks, to the effect that said board of commissioners will sell said bonds, briefly describing them, at public auction, and stating the time and place of such sale; and said board of county commissioners may, in its discretion, at any time after said bonds have been offered for sale as herein provided, and without previous notice, negotiate and sell said bonds at private sale, if in the opinion of said board the interest of said county is best subserved thereby: *Provided*, Said bonds shall not be sold at private sale for less than the highest bid offered at public auction, and in no event for less than their par value. All moneys arising from the sale of said bonds shall be paid into the treasury of said county to the credit of the sinking fund, and shall immediately thereafter be applied to the payment of the outstanding warrants of said county and the accrued interest thereon, in the manner prescribed by law for the payment of county warrants.

SEC. 4. The treasurer of said county shall pay, in lawful money of the United States, at the expiration of six months from the date of issue of each bond, the interest due thereon, and semi-annually thereafter, on presentation at his office of the proper coupon, which shall show the amount due and the number of the bond to which it belonged; but in case the holder or holders of the said bonds shall give the treasurer notice in writing that he or they wish the bonds so held by them, and the interest accruing thereon, to be paid at a designated bank in New York City, then the said bonds and coupons shall be payable in the said city of New York; otherwise the said bonds and coupons shall be payable at the office of the said county treasurer. And all bonds and coupons so paid by said treasurer shall be returned to the board of county commissioners at his next quarterly settlement after such payment; and the said board of commissioners shall cancel said bonds in the manner provided by law for the cancellation of county warrants.

SEC. 5. The county clerk shall enter on the right hand page of the record of bonds provided in section 2, opposite to its appropriate number, all bonds returned by the treasurer to the board of county commissioners, "Redeemed," and such entry shall show the date of redemption, the amount of the bond redeemed, the amount of interest paid thereon, and the name of the person from whom redeemed.

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SEC. 6. It shall be the duty of said board of county commissioners to cause to be set aside fifteen per cent. of all moneys collected by said county, or received into the treasury thereof, exclusive of that received to the credit of the Territory or of the public school fund, for the purpose of paying the interest accruing on the bonds issued and sold under the provisions of this act, and all surplus of said fifteen per cent. received into the treasury after payment of the interest aforesaid, shall constitute a sinking fund, and be applied to the redemption of said bonds as hereinafter provided.

SEC. 7. Whenever, at any time, the sum in said sinking fund shall equal or exceed the sum of five hundred dollars, and from time to time thereafter when it may so occur, the said treasurer shall cause a notice to be published in one newspaper published in Montana Territory, that he will, in thirty days from the date of said notice, redeem said amount of bonds which may then be payable, giving the numbers thereof, preference being given to the oldest issue, and if, at the expiration of said thirty days the holder or holders of said bonds shall fail or neglect to present the same for payment, interest thereon shall cease; but the treasurer shall at all times thereafter be ready to redeem the same on presentation. Such notice shall be sent by mail to such places in New York City of which the treasurer shall have knowledge, as provided in section 4 of this act, with like effect.

SEC. 8. If, at any time before the expiration of five years from the date of said bonds, there shall accumulate in the sinking fund of said county the sum of five hundred dollars or more, and as often as the same may occur, the treasurer of said county shall purchase from the holder or holders of said bonds, at not exceeding their par value, such bonds as he may have money in the sinking fund applicable to such purpose to purchase or redeem, and the bonds so purchased and redeemed shall be returned by said treasurer to the board of county commissioners at his next quarterly settlement thereafter, and they shall, by said board, be disposed of as provided in sections 4 and 5 of this act.

SEC. 9. The treasurer of said county, whose duty it shall be to receive and pay out the funds in this act provided, shall, before entering upon the discharge of said duties, execute to the board of county commissioners of said county a bond with two or more sufficient sureties, to be approved by said board, and in such penal sum as said board may direct, to the effect that he will faithfully discharge all the duties required of him, and will pay out and properly account to said board of county commissioners for all moneys which may come into his possession by virtue of the provisions of this act, which bond, with approval of the board endorsed thereon, shall be filed in the office of the county clerk of said county.

SEC. 10. The treasurer shall be entitled to receive as full compensation for receiving and disbursing all moneys, and in full payment of all services required of him by the provisions of this act, one-half of one per cent. of the amount thereof, anything in the acts prescribing the fees of county treasurer to the contrary notwithstanding.

SEC. 11. The county clerk shall be entitled to receive fifty cents for each bond issued, as full compensation for making out, issuing, signing, and registering the same.

APPROVED February 23, 1881.

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AN ACT to enable the citizens of Beaverhead county to vote on the proposition of changing the county seat, and for other purposes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. On the first Monday in May next an election shall be held in Beaverhead county to submit to the qualified electors of said county, to be voted on, the following proposition, viz: To change the county seat of said county to Dillon, and against changing the county seat of said county to Dillon.

SEC. 2. It shall be the duty of the county commissioners to give notice of the proposition to change the county seat at least forty days prior to the day of election, by causing the same to be published in some newspaper published in the county, for thirty days previous to the day of such election (if any paper be published in the county), but if no such paper be published in the county, then by posting written or printed notices in ten public places in the county, and also on the doors of each post office in the county, and one at the place where the polls are opened in each precinct in the county, stating the proposition to be voted on and the time of such election.

SEC. 3. At such election the ballots of those voting in favor of changing the county seat shall have written or printed thereon "To change the county seat to Dillon—Yes," and those voting against the change of the county seat shall have written or printed thereon "To change the county seat to Dillon—No."

SEC. 4. It shall be the duty of the judges and clerks of election in the several precincts to receive, count, and make returns of all such ballots as are legal, in the same manner and at the same time as is provided by law for the enumerating of ballots for county officers.

SEC. 5. In like manner the canvassing board shall make an abstract of all such votes, and it shall be the duty of the clerk of the board to make out a copy of such abstract of votes for or against changing the county seat, and deliver the same to the secretary of the Territory to be filed in his office, and also one copy to the county clerk and recorder, which shall be recorded in the records of his office.

SEC. 6. If a majority of the votes so received and counted shall be in favor of changing the county seat as heretofore provided, it shall be the duty of the county commissioners, within the period of four months from the date of the election, to cause the books, papers, records, and effects of the county to be removed to the place so designated as the county seat; and it shall be the duty of the several county officers to thereafter hold and keep all county books, papers and records, and their offices, at such new county seat.

SEC. 7. The county commissioners are authorized and empowered to sell and dispose of the county property, personal and real, situate at Bannack, as may be impracticable to remove to the new county seat, if such county seat be removed under the provisions of this act.

SEC. 8. That if a majority of the votes cast as such election shall be in favor of changing the county seat as heretofore provided, then the county commissioners of Beaverhead county are hereby empowered to issue, on the credit of such county, coupon bonds to an amount not exceeding the sum of twenty-five thousand dollars, or so much thereof as may be necessary, to enable said board to erect and finish a suitable court house and jail at such county seat, which said bonds

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shall be dated on the day of their issue, shall be redeemable at the pleasure of said county after five years, and shall become due and payable after fifteen years from the date of their issue.

SEC. 9. Said bonds shall be of the denominations of one hundred, and one thousand dollars each, and shall bear interest at a rate not exceeding seven per cent. per annum; said bonds and the coupons thereto attached shall be signed by the chairman of the board of county commissioners, and the clerk of the said county, and shall be in such form as said board of commissioners may direct. Each bond issued shall, at the date of its issue, be registered by the county clerk on the left hand page of a book provided for that purpose, which said book shall show on the left hand pages the number, date, and amount of each bond, and to whom issued; and on the right hand pages the date of redemption, the amount of the bond redeemed, the amount of interest paid thereon, and the name of the person from whom redeemed.

SEC. 10. For the purpose of carrying into effect the provisions of this act the said board of county commissioners is hereby authorized to cause to be engraved, or lithographed, at the lowest practicable rates, suitable blank bonds, with coupons attached, and shall pay therefor out of any moneys in the treasury of said county not otherwise appropriated.

SEC. 11. The said board of county commissioners shall, whenever it becomes necessary, order a sale of the bonds provided for in this act. Such sale shall be by public auction to the highest bidder for cash, and for not less than the par value of such bonds, and shall be made at the front door of the court house in said county. Notice of the time and place of such sale shall be given by advertisement in at least one newspaper published in this Territory, and one newspaper published in the city of New York, once a week for at least four weeks prior to the time of such sale; said notice to be complete at least ten days prior to the time of such sale.

SEC. 12. The treasurer of said county shall pay in lawful money of the United States, semi-annually on the first days of January and July of each year, the interest due on said bonds upon presentation at his office of the proper coupon, which shall show the amount due, and the number of the bond to which it belonged. All coupons so paid shall be returned to the board of county commissioners at the first regular meeting thereof after such payment. Should the holders of such bonds to an amount not less than one thousand dollars give the treasurer notice in writing that they desire the bonds so held by them, and the interest accruing thereon, to be paid at a designated bank in the city of New York, then the said bonds and coupons so held by such person or persons shall be payable at such bank in the city of New York.

SEC. 13. The proceeds of the sale of such bonds shall be paid into the county treasury of said county to the credit of the jail fund, and shall immediately become available for the purpose of carrying into effect the provisions of this act.

SEC. 14. The county clerk shall enter on the right hand pages of the book provided for in section 9 of this act, and opposite to its appropriate number, all bonds returned to the board of county com-

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missioners, "redeemed," and such entry shall show the amount of each bond redeemed, its number, date of redemption, the amount of interest paid thereon, and from whom redeemed.

SEC. 15. This act shall not be so construed as to entitle the county treasurer to receive as compensation for receiving, keeping, and disbursing the moneys provided for in this act, an amount exceeding the sum of fifty dollars.

SEC. 16. The county clerk shall be entitled to receive the sum of fifty cents for each bond issued, as full compensation for all services required of him by this act. This act shall take affect from and after its passage.

APPROVED February 22, 1881.

AN ACT to enable the county of Choteau to erect a jail.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the board of county commissioners of Choteau county is hereby authorized and empowed to issue, on the credit of said county, coupon bonds to an amount not exceeding the sum of twelve thousand dollars, or so much thereof as may be necessary to enable said board to erect and finish a jail in said county, which said bonds shall be dated on the day of their issue, shall be redeemable at the pleasure of said county after five years, and shall become due and payable after fifteen years from the date of their issue.

SEC. 2. Said bonds shall be of the denominations of one hundred, and one thousand dollars each, and shall bear interest at a rate not exceeding seven per cent. per annum. Said bonds, and the coupons thereto attached, shall be signed by the chairman of the board of county commissioners and the clerk of said county, and shall be in such form as said board of commissioners may direct. Each bond issued shall, at the date of its issue, be registered by the county clerk on the left hand page of a book provided for that purpose, which said book shall show on the left hand pages the number, date, and amount of each bond, and to whom issued, and on the right hand pages the date of redemption, the amount of the bond redeemed, the amount of interest paid thereon, and the name of the persons from whom redeemed.

SEC. 3. For the purpose of carrying into effect the provisions of this act, the said board of county commissioners is hereby authorized to cause to be engraved, or lithographed, at the lowest practicable rates, suitable blank bonds with coupons attached, and shall pay therefor out of any moneys in the treasury of said county not otherwise appropriated.

SEC. 4. The board of county commissioners shall, whenever it becomes necessary, order a sale of the bonds provided for in this act. Such sale shall be by public auction to the highest bidder for cash, and for not less than the par value of such bonds, and shall be made at the front door of the court house in said county. Notice of the time and place of such sale shall be given by advertisement in at least one newspaper published in this Territory, and one newspaper published in the city of New York, once a week for at least four weeks prior to the time of such sale, said notice to be complete at least ten days prior to the time of such sale.

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SEC. 5. The treasurer of said county shall pay in lawful money of the United States, semi-annually, on the first days of January and July of each year, the interest due on said bonds upon the presentation at his office of the proper coupon, which shall show the amount due and the number of the bond to which it belonged. All coupons so paid shall be returned to the board of county commissioners at the first regular meeting thereof after such payment. Should the holders of such bonds, to an amount not less than one thousand dollars, give the treasurer notice in writing that they desire the bonds so held by them, and the interest accruing thereon, to be paid at a designated bank in the city of New York, then the said bonds and coupons so held by such person or persons shall be payable at such bank in the city of New York.

SEC. 6. The proceeds of the sale of such bonds shall be paid into the county treasury of said county to the credit of the jail fund, and shall immediately become available for the purpose of carrying into effect the provisions of this act.

SEC. 7. The county clerk shall enter on the right hand pages of the book provided for in section 2 of this act, and opposite to its appropriate number, all bonds returned to the board of county commissioners, "Redeemed," and such entry shall show the amount of each bond redeemed, its number, date of redemption, the amount of interest paid thereon, and from whom redeemed.

SEC. 8. This act shall not be so construed as to entitle the county treasurer to receive as compensation for receiving, keeping, and disbursing the moneys provided for in this act, an amount exceeding the sum of fifty dollars.

SEC. 9. The county clerk shall be entitled to receive the sum of fifty cents for each bond issued, as full compensation for all services required of him by this act.

APPROVED February 22, 1881.

AN ACT to enable the people of Butte to build a school house.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the trustees of School District No. 3, in Silver Bow county, Montana Territory, are hereby authorized and empowered to issue, on the credit of said school district, coupon bonds to an amount not to exceed the sum of twelve thousand dollars, or so much thereof as may be necessary, to enable the trustees of said school district to erect ample and sufficient buildings for school purposes, and to furnish and equip the same; which bonds shall become due and payable six years from their date, and shall be redeemable at the pleasure of the trustees after one year from the date of their issue, and shall bear interest at a rate not exceeding seven per cent. per annum, interest payable semi-annually.

SEC. 2. The bonds authorized to be issued by this act shall be in such form as the school trustees may direct, and shall bear the signature of the chairman of the board of trustees, and shall be countersigned by the clerk of the said school district, and the coupons attached to the bonds shall be signed by the chairman of the board

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of trustees and the clerk of the school district; and each bond issued shall be registered by the county treasurer of Silver Bow county, in a book provided for that purpose, which shall show the number and amount of each bond, and to whom issued, and said bonds shall be sold by said school trustees, or their lawfully authorized agents, at not less than ninety-five cents on the dollar of the face thereof, as hereinafter provided.

SEC. 3. The school trustees shall, as soon as practicable after the passage of this act, and its approval by the people of School District No. 3, as hereinafter provided, give notice by advertisement in some newspaper published in Silver Bow county, for a period of not less than four weeks, to the effect that said school trustees will sell said bonds (briefly describing them), and stating the time when, and place where, such sale will take place: *Provided*, That the school trustees are authorized to reject any and all bids, and to sell the said coupon bonds at private sale, if they believe it for the best interests of the school district; and all money arising from the sale of such bonds shall be immediately paid into the treasury of Silver Bow county to the credit of said school district, and shall be immediately available for carrying into effect the provisions of this act, and the treasurer shall not be entitled to any compensation for any services required by this act.

SEC. 4. All bonds authorized to be issued by this act shall be of the denomination of one hundred, and five hundred dollars, and the faith of said school district is hereby solemnly pledged for the payment of the interest and the redemption of the principal of said bonds.

SEC. 5. The school trustees shall ascertain and levy annually the tax requisite to pay the installments of interest as they become due, and a sinking fund to meet the bonds at their maturity, and said tax shall become a lien upon the property in said school district, and be collected in the same manner and under the same laws that other taxes are collected.

SEC. 6. Whenever, at any time after one year from the issue of said bonds, or any of them, the sum in the sinking fund shall equal or exceed the sum of one hundred dollars, and from time to time thereafter when it may so occur, the county treasurer shall post in his office notice that he will, in thirty days from the date of such notice, redeem said amount of bonds which may then be payable, giving the numbers thereof, preference being given to the oldest issue, and if, at the expiration of said thirty days, the holder or holders of such bonds shall fail or neglect to present the same for payment, interest thereon shall cease, but the treasurer shall at all times thereafter be ready to redeem the same on presentation; and whenever any bonds shall be purchased or redeemed, the county treasurer shall cancel all such bonds by writing across the face thereof in red ink, the word "redeemed," and the date of such redemption.

SEC. 7. The treasurer of the county shall pay out of any moneys belonging to said school district, at the expiration of six months from the date of the issue of such bonds, the interest due on such bond, and semi-annually thereafter, upon presentation at his office of the proper coupon, which shall show the amount due and the number of the bond to which it belonged, and all coupons so paid shall be reported to the school trustees at their first meeting thereafter.

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SEC. 8. For the purpose of carrying into effect the provisions of this act, the said school trustees are hereby authorized to cause to be printed, or lithographed, at the lowest possible rates, suitable bonds, with coupons attached, and pay for the same out of any moneys in the county treasury to the credit of said school district.

SEC. 9. This act shall be submitted to the qualified voters of said school district on Saturday, March 26, 1881, at the school house in said district, by and under the direction of the school trustees of said district, and if a majority of the votes cast at such election shall be in favor of this act, then this act shall be in full force and effect; but if a majority of the votes cast shall be against this act, then this act shall remain suspended unless thereafter enforced as hereinafter provided.

SEC. 10. In case of the rejection of this act by the majority of the votes cast at the first election, the same may again be submitted to the voters of said district for approval, at any time or times thereafter when one hundred qualified voters of said district shall petition the school trustees to resubmit the same, and, upon such petition being made, said trustees shall resubmit the same to the qualified voters of said district as in the first instance, and if upon said second submission a majority shall be in favor of this act, then the same shall be in full force and effect from the time of its adoption; and this act may be resubmitted as often as said number of petitioners shall petition for the submission of the same. The resubmission of this act shall be conducted in the manner provided by the school trustees, on notice thereof of not less than ten days.

SEC. 11. Before entering on the duties prescribed by this act, the school trustees of School District No. 3 shall severally take and subscribe on oath and enter into bonds in the sum of twelve thousand dollars, with two or more sureties to be approved by the county commissioners, that they will faithfully perform the duties resting on them under this act. Said oath and bonds shall be filed in the office of the clerk of Silver Bow county; that if the school trustees or any of them shall fail or refuse to pay into the county treasury the money arising from the sale of the bonds provided for, they, or any of them being so delinquent, shall be guilty of felony, and, upon conviction thereof, shall be punished by a fine not exceeding five thousand dollars, or by imprisonment in the penitentiary not exceeding ten years, in the discretion of the court.

SEC. 12. That an act entitled "An act to enable the people of Butte to erect a school house," approved July 21, 1879, be, and the same is hereby, repealed.

APPROVED February 21, 1881.

AN ACT to enable the county of Meagher to erect a court house and jail.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the county commissioners of Meagher county, Montana Territory, are hereby authorized and empowered to issue, on the credit of said county, coupon bonds to an amount not exceeding ten thousand dollars, or so much thereof as may be necessary, to

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enable them to erect a court house and jail, and provide the same with necessary and proper furniture, which said bonds shall be redeemable at the pleasure of said county after three years from their date, and shall be dated on the day of their issue, and shall become due and payable fifteen years from their date.

SEC. 2. Said bonds shall be of the denomination of five hundred dollars, and shall bear interest at a rate not exceeding seven per cent. per annum. They shall be in such form as the board of county commissioners may direct, and they shall be signed by the chairman of the board of county commissioners and the treasurer of said county. They shall also be sealed with the county seal of said county and countersigned by the clerk of said county. The coupons attached to the bonds shall be signed by the chairman of said board, the treasurer of the county, and the county clerk. Each bond issued shall be registered by said county treasurer in a book provided for that purpose, and such registration shall show the number and amount of each bond, and when and to whom issued, and the faith of said county of Meagher is hereby pledged for the payment of the interest, and the redemption of the principal of said bonds.

SEC. 3. For the purpose of carrying into effect the provisions of this act, the said commissioners are hereby authorized to have engraved, or lithographed, at the lowest possible rates, suitable bonds, with coupons attached, and shall pay therefore out of any moneys in the treasury of said county not otherwise appropriated.

SEC. 4. The said county commissioners shall, whenever it becomes necessary, order the sale of the bonds provided for in this act, and such sale shall be conducted in such manner as said commissioners may prescribe; but said bonds shall not be sold for less than the face thereof.

SEC. 5. The treasurer of said county shall pay in lawful money of the United States, at the expiration of six months from the date of the issue of each bond, the interest due thereon, and semi-annually thereafter, upon presentation at his office, of the proper coupon, which shall show the amount due and the number of the bond to which it belonged. All coupons so paid shall be reported to the county commissioners at their first meeting thereafter. Should the holders of said bonds to an amount not less than one thousand dollars give the treasurer notice in writing that they desire the bonds so held by them, and the interest accruing thereon, to be paid at a designated national bank in the city of New York, then the said bonds and coupons so held by such person or persons shall be payable at said bank in the city of New York; otherwise said bonds and coupons shall be payable at the office of said county treasurer.

SEC. 6. The proceeds of the sale of said bonds shall be paid into the county treasury of said county to the credit of the court house fund, and shall immediately become available for the purpose of carrying into effect the provisions of this act.

SEC. 7. The treasurer shall register, in a book to be kept for that purpose, all bonds redeemed by him, which shall show the amount of bonds, its number and date, when and to whom issued, and when and from whom redeemed. Said treasurer shall also write across the face of said bond, in red ink, the word "redeemed," with the date of such redemption, and shall subscribe his name thereto. He shall also cancel such bonds with a cancelling stamp.

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SEC. 8. The county clerk shall receive in full compensation for his services, in making out and signing, and affixing the county seal to the bonds and coupons contemplated in this act, the sum of fifty cents for each bond issued, anything in the law regulating the fees of the county clerk to the contrary notwithstanding; and the county treasurer shall receive as compensation for receiving and paying out moneys provided for in this act an amount not exceeding two mills on the dollar for the moneys so received and paid out.

SEC. 9. The county commissioners of said county shall have exclusive supervision of the construction of the buildings authorized by this act. They shall cause suitable plans and specifications to be made, and shall let contracts for material and for the construction of the buildings to the lowest bidder or bidders, and the contractor shall give bonds with sufficient sureties for the completion of the work according to the specifications.

SEC. 10. This act shall be in force from and after its passage.

APPROVED February 22, 1881.

AN ACT to enable the people of Bozeman to erect a school house.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the trustees of school district No. 7, in Gallatin county, Montana Territory, are hereby authorized and empowered to issue, on the credit of said school district, coupon bonds to an amount not to exceed the sum of fifteen thousand dollars, or so much thereof as may be necessary to enable the trustees of said school district to purchase and enclose suitable grounds on the east side of Bozeman creek, and erect thereon ample and sufficient buildings for school purposes, furnish and equip the same, which bonds shall be redeemable at the pleasure of the trustees of said school district, and shall become due and payable ten years from their date, and bear interest at a rate not exceeding ten per cent. per annum, interest payable semi-annually.

SEC. 2. The bonds authorized to be issued by this act, shall be in such form as the school trustees may direct, and shall bear the signature of the chairman of the board of school trustees, and shall be sealed and countersigned by the clerk of said school district, and the coupons attached to the bonds shall be signed by the chairman of the board of school trustees and the clerk of the said school district, and each bond issued shall be registered by the county treasurer in a book provided for that purpose, and it shall show the number and amount of each bond, and to whom issued; and the said bonds shall be sold by the said school trustees, or their lawfully authorized agents, at not less than ninety-seven cents on the dollar of the face thereof, as hereinafter provided.

SEC. 3. The school trustees shall, as soon as practicable after the passage of this act, give notice by advertisement in some newspaper published in this Territory, for a period of not more than four weeks, to the effect that the said school trustees will sell said bonds (briefly describing the same,) and stating the time when, and the place where, such sale shall take place: *Provided*, That the school trustees are

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authorized to reject any and all bids, and to sell said coupon bonds at private sale, if they believe it for the best interest of the district; and all moneys arising from the sale of said bonds shall be paid forthwith into the treasury of Gallatin county to the credit of said school district, and shall be immediately available for carrying out the provisions of this act; and the treasurer shall receive one per cent. as compensation for handling said money.

SEC. 4. All bonds authorized to be issued by this act shall be of the denomination of one hundred, and five hundred dollars, and the faith of said school district is hereby solemnly pledged for the payment of the interest and the redemption of the principal of said bonds.

SEC. 5. The school trustees shall ascertain and levy annually the tax requisite to pay the installments of interest as they become due, and a sinking fund to meet the bonds at their maturity, and said tax shall become a lien upon the property in said school district, and be collected in the same manner and under the same laws that other taxes are collected.

SEC. 6. Whenever, at any time, the sum in said sinking fund shall equal or exceed the sum of any bond or bonds then due, and from time to time thereafter when it may so occur, the county treasurer shall post in his office that he will, in thirty days from the date of such notice, redeem said amount of bonds which may then be payable, giving the numbers thereof, preference being given to the oldest issue; and if at the expiration of said thirty days, the holder or holders of said bonds shall fail or neglect to present the same for payment, interest thereon shall cease, but the treasurer shall at all times thereafter be ready to redeem the same on presentation; and whenever any bonds shall be so purchased or redeemed, the county treasurer shall cancel all bonds so purchased and redeemed by writing across the face of such bond or bonds, in red ink, the word "redeemed," and the date of such redemption.

SEC. 7. The treasurer of the county shall pay in lawful money of the United States, out of any moneys belonging to the said school district, at the expiration of six months from the date of the issue of each bond, the interest due thereon, and semi-annually thereafter, upon the presentation at his office of the proper coupon, which shall show the amount due and the number of the bond to which it belonged; and all coupons so paid shall be reported to the school trustees at their first meeting thereafter.

SEC. 8. For the purpose of carrying into effect the provisions of this act, the said school trustees are hereby authorized to cause to be printed, or lithographed, at the lowest possible rates, suitable bonds with coupons attached, and pay for the same out of any moneys in the county treasury to the credit of said school district.

SEC. 9. That if the school trustees, or any of them, shall fail or refuse to pay into the county treasury the money arising from the sale of the bonds provided for, they shall be deemed guilty of a felony, and upon conviction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment in the penitentiary not exceeding the term of ten years, in the discretion of the court.

SEC. 10. This act shall be submitted to the qualified voters of the said school district on Saturday, the 19th day of March, 1881, at the school house in said district, by direction of the school trustees, and

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if a majority of the votes so cast at the election shall be in favor of this act, then this act to be in full force and effect; but if a majority of the votes so cast shall be against this act, then this act shall remain suspended, unless thereafter enforced as hereinafter set forth.

SEC. 11. In case of the rejection of this act by a majority of the qualified voters at the first election, it shall be lawful for the trustees to again submit the adoption or rejection of this act, to the qualified voters of said school district, on the first Saturday in February, 1882: *Provided,* The said trustees shall first receive a petition signed by fifty or more of the qualified voters of said school district petitioning for the same; and if upon said second submission a majority shall be in favor of this act, then the same shall be in full force and effect thereafter. Said submission shall be conducted in the same manner and form as provided for first submission.

SEC. 12. This act to take effect and be in force from and after its passage.

[NOTE BY THE SECRETARY. The foregoing act, having been presented to the governor of the Territory of Montana on the 15th day of February, 1881, for his approval, and not having been returned by him to that house of the Legislative Assembly in which it originated within the time prescribed by section 1842, Chapter I, Title XXIII, Revised Statutes of the United States, has become a law without his approval.]

AN ACT to authorize the county of Meagher to build a wagon road.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. The county commissioners of Meagher county, Montana Territory, are hereby authorized, in addition to the taxes already levied in said county, to levy a special tax, not to exceed one mill on the dollar of the taxable property of said county, for the purpose of building the road herein provided for.

SEC. 2. The taxes authorized to be levied by this act shall be levied and collected in the same manner as other taxes, and the money when collected shall be paid into the treasury of said county and kept as a special road fund, subject to the order of the county commissioners, who shall expend the same in constructing a suitable wagon road from a point at or near the forks of Deep Creek, Meagher county, extending across the mountain to a point at or near the ranch of C. W. Cook, in Smith River Valley; and the construction of said road shall be under the supervision of the board of county commissioners, and the work thereon shall in all cases be contracted to the lowest responsible bidder.

SEC. 3. The levying of the tax herein provided for shall be discretionary with the said county commissioners.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED February 23, 1881.

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AN ACT to incorporate the city of Helena.

Be it enacted by the Legislative Assembly of the Territory of Montana:

ARTICLE I.

OF BOUNDARIES.

SECTION 1. That the inhabitants of the city of Helena, in Lewis and Clarke county, Territory of Montana, be and are hereby constituted a body politic and corporate, by the name and style of "The city of Helena," and by that name shall have perpetual succession; may sue and be sued, plead and be impleaded in all courts of law and equity, and may have and use a common seal, and alter the same at pleasure.

SEC. 2. That the following described lands shall, for the present, be included within the limits of said incorporated city, to-wit:

Sections twenty-four, twenty-five and thirty-six, in township No. 10 north range 4 west; and sections nineteen, twenty, twenty-nine, thirty-one and thirty-two, in township No. 10 north range 3 west from the principal base and meridian, Montana Territory.

SEC. 3. Whenever any tract of land adjoining the city of Helena shall be laid off into town lots and duly recorded, as may be required by law, the same may, by the city council, be annexed to and become a part of the city of Helena.

SEC. 4. The inhabitants of said city, by the name and style aforesaid, shall have power to purchase, receive and hold property, both real and personal, or mixed, either in or beyond the city, for burial grounds, and for other purposes, for the use of the inhabitants of said city.

ARTICLE II.

OF THE CITY COUNCIL.

SECTION 1. There shall be a city council, to consist of a mayor and board of aldermen.

SEC. 2. The board of aldermen shall consist of two members from each ward, to be chosen by the qualified voters for two years and until others shall be legally qualified.

SEC. 3. No person shall be an alderman unless at the time of his election he shall be a taxpaying property holder within the limits of the city, and have resided within said city limits one year immediately preceding election, and shall have the requisite qualifications to vote for members of the legislature, and be a resident of the ward for which he is elected.

SEC. 4. If any alderman after his election remove from the ward for which he was elected, his office shall be declared vacant. The mayor and aldermen shall serve without any compensation whatever.

SEC. 5. At the first meeting of the city council the aldermen shall be divided by lot into classes. The seats of those of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year, so that one-half of the board shall be elected annually.

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SEC. 6. The city council shall judge of the qualifications and returns of their own members, and shall determine all contested elections under this act.

SEC. 7. A majority of the city council shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, under such penalties as may be prescribed by ordinance.

SEC. 8. The city council shall have power to determine the rules of its own proceedings, punish its members for disorderly conduct, and, with the concurrence of two-thirds of the members elected, expel any member.

SEC. 9. No alderman shall be appointed to any office under the authority of the city, nor for one year after the termination of his said office; nor shall any person holding an office under the laws of the United States hold any office under this act or the ordinances of said city.

SEC. 10. All vacancies that shall occur in the board of aldermen shall be filled by election.

SEC. 11. The mayor and aldermen, before entering upon the duties of their respective offices, shall each take and subscribe an oath, or make an affirmation, that he will support the Constitution of the United States and the organic act of this Territory, and that he will well and truly perform the duties of his office to the best of his skill and ability.

SEC. 12. Whenever there shall be a tie in the election of aldermen, the judges of election shall certify the fact to the mayor, who shall determine the same by lot, in such manner as shall be described [prescribed] by ordinance.

SEC. 13. There shall be twelve stated meetings of the city council in each year, at such times and places as may be prescribed by the city council.

ARTICLE III.

OF THE EXECUTIVE OFFICER.

SECTION 1. The chief executive officer shall be a mayor, who shall be elected by the qualified voters of the city, and shall hold his office for one year, and until his successor shall be elected and qualified.

SEC. 2. No person shall be eligible to the office of mayor who shall not have been a resident of the city for one year next preceding his election, or who shall be under twenty-five years of age, or who shall not, at the time of his election be an elector.

SEC. 3. If any mayor, during the term for which he shall have been elected, remove from the city, or shall be absent from the city for the space of three months, his office shall be declared vacated.

SEC. 4. When two or more persons shall have an equal number of votes for mayor, the judges of election shall certify the same to the city council, who shall proceed to determine the same by lot in such manner as may be provided by ordinance.

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SEC. 5. Whenever any election for mayor shall be contested the city council shall determine the same, as may be prescribed by ordinance.

SEC. 6. Whenever any vacancy shall happen in the office of mayor it shall be filled by election.

ARTICLE IV.

OF ELECTIONS.

SECTION 1. On the first Monday in April, A. D. 1881, an election shall be held in said city for one mayor for the city and two aldermen for each ward; one city treasurer, who shall also act as city assessor and collector, and one police magistrate; and forever thereafter, on the first Monday of April in each year, there shall be an election for one mayor for said city, one alderman for each ward, a city treasurer, and a police magistrate.

SEC. 2. All citizens of the United States, and those who have declared their intention to become such, of twenty-one years of age, who shall have been actual residents of said city for six months next preceding said election, shall be entitled to vote for city officers: *Provided*, That said voters shall give their votes in the wards in which they respectively reside.

ARTICLE V.

POWERS OF CITY COUNCIL.

SECTION 1. The city council shall have power and authority to levy and collect *ad valorem* taxes for city purposes upon all taxable property, real, mixed, and personal, except as herein excepted, within the city limits, not exceeding three-tenths of one per cent. per annum upon the assessed value thereof, and may enforce the payment of the same in any manner that may be prescribed by ordinance, not repugnant to the Constitution of the United States, or the organic act of this Territory.

SEC. 2. The mayor shall nominate, and, with the consent of the council, appoint the city clerk, who shall also act as city attorney; the city marshal, policemen, watchman, and all officers whose office shall, or may be, created by ordinance of said city. The terms of all officers shall be for one year, unless sooner removed by the city council. The city council shall, by ordinance, fix the fees or compensation of all city officers: *Provided*, That the police magistrate of said city shall be paid a stated salary, and shall not be entitled to tax, or impose as costs, in any case, fees for his own services while acting as such magistrate.

SEC. 3. The city council shall have power to require of all officers, appointed or elected in pursuance of this act, bonds with penalty and security, for the faithful performance of their respective duties, as may be deemed expedient, and also require of all officers appointed or elected

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as aforesaid, to take such oaths or make such affirmation as the city council may prescribe for the faithful performance of the duties of their respective offices before entering upon the discharge of the same.

SEC. 4. To appropriate money and funds for the payment of the expenses of the city.

SEC. 5. To make regulations to prevent the introducing of contagious diseases into the city; to make quarantine laws for the purpose, and to enforce the same within five miles of the city.

SEC. 6. To establish hospitals and make regulations for the government of the same.

SEC. 7. To make regulations to secure the general health of the inhabitants; to declare what shall be a nuisance, and to prevent and remove the same.

SEC. 8. To provide the city with water, erect hydrants and pumps, build cisterns and dig wells in the streets for the supply of engines and buckets.

SEC. 9. To open, alter, abolish, widen, extend, establish, grade, pave, or otherwise improve and keep in repair, streets, avenues, lanes, alleys, sidewalks, drains and sewers.

SEC. 10. To establish, erect, and keep in repair bridges.

SEC. 11. To divide the city into wards, alter the boundaries thereof, and create additional wards, as the occasion may require.

SEC. 12. To establish, support and regulate night watches.

SEC. 13. To provide for lighting the streets, and to erect lamp posts.

SEC. 14. To erect market houses, to establish markets and market places, and to provide for the government and regulation thereof.

SEC. 15. To provide all needful buildings for the use of the city.

SEC. 16. To provide for the enclosing, improving and regulating of all public grounds belonging to the city.

SEC. 17. The said city council shall not be authorized to incur any indebtedness on behalf of said city for any purpose whatever to exceed the sum of five hundred dollars.

SEC. 18. It shall have power to provide for the prevention and extinguishment of fires; to organize and establish fire companies, and to prohibit the erection of wooden buildings in any part of the city.

SEC. 19. To regulate the building and fixing of chimneys, and to fix the flues thereof.

SEC. 20. To regulate the storage of gunpowder, tar, pitch and resin, and other dangerous or combustible materials.

SEC. 21. To regulate parapets, walls and partition fences, and restrain cattle, hogs, horses, sheep and dogs from running at large.

SEC. 22. To establish standard weights and measures, and regulate the weights and measures to be used in the city in all cases not otherwise provided for by law, and to order all laws on the subject to be enforced, and to fix and enforce payment of fines for non-compliance with any such order.

SEC. 23. To provide for the measuring and inspection of lumber and other building materials, and the measuring of all kinds of mechanical work.

SEC. 24. To provide for the inspection and weighing of stone coal, and measurement of charcoal, firewood, and other fuel to be used within the city.

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SEC. 25. To provide for and regulate the inspection of tabacco, and of beef, pork, mutton, game and fish, flour, meal, and whisky in barrels.

SEC. 26. To regulate the inspection of butter, lard, and all other provisions.

SEC. 27. To regulate the weight and quality of bread to be used in the city.

SEC. 28. To regulate the size of bricks to be used in the city.

SEC. 29. To provide for taking the enumeration of the city.

SEC. 30. To regulate the election of city officers, and to provide for removing from office any person holding an office created by ordinance.

SEC. 31. To fix the compensation of city policemen, who shall be night watchmen: *Provided*, That such compensation shall not exceed the sum paid by law in this Territory to other officers for like services, and regulate fees of jurors, witnesses and others for services rendered under this act, or any ordinance made in pursuance thereof.

SEC. 32. To regulate the police of the city; to enforce fines, forfeitures and penalties or [for] the breach of any ordinance, and to provide for the receiving and appropriation of such fines and forfeitures, and enforcement of such penalties, and all moneys collected under or by authority of any city ordinance shall be deemed to be taken to belong to said city for the general use and benefit of the inhabitants thereof, for the purpose herein provided.

SEC. 33. The city council shall have power to make all ordinances which shall be necessary and proper for carrying into execution powers specified in this act, so that such ordinances incur no indebtedness whatever, and necessitate no levying of taxes exceeding three mills on each dollar, except as is provided in sections 5 and 6 of Article VII, and be not repugnant to nor inconsistent with the Constitution of the United States, nor the organic act of this Territory.

SEC. 34. The style of the ordinance shall be, "Be it ordained by the city council of the city of Helena."

SEC. 35. All ordinances of the city council shall, within ten days after they shall have been passed, be posted in three public places in said city, and shall not be in force until they have been posted as aforesaid.

SEC. 36. All ordinances of the city council may be proven by the seal of the corporation, and when printed in book form or pamphlet form, and purporting to be printed and published by authority of the corporation, the same shall be received in evidence in all courts and places without further proof.

ARTICLE VI.

THE MAYOR.

SECTION 1. The mayor shall preside at all meetings of the city council, and in case of a tie, he shall have the casting vote, and in no other; in case of the non-attendance of the mayor at any meeting, the board of aldermen shall appoint one of their number as chairman, who shall preside at the meeting, but shall not thereby lose his right to vote on any question before the board.

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SEC. 2. The mayor, or any two aldermen, may call a special meeting of the city council, the city clerk, on their requisition, giving reasonable notice in writing thereof, to all members of the city council present in the city.

SEC. 3. The mayor shall at all times be vigilant and active in enforcing the laws and ordinances of the government of the city. He shall inspect the conduct of all subordinate officers of said city, and cause negligence or positive violation of duty to be prosecuted and punished. He shall, from time to time, communicate to the aldermen such information and recommend all such measures as, in his opinion, may tend to the improvement of the finances, the police, the health, security and comfort of the city.

SEC. 4. He is hereby authorized to call on every male citizen of said city, over the age of eighteen years, to aid in the enforcing of the laws and ordinances, and in case of riots to call out the militia to aid him in suppressing the same or other disorderly conduct, preventing and extinguishing fires, for securing the peace and safety of the city, or of carrying into effect any law or ordinance; and any person who shall not obey such call, shall forfeit to said city a fine not exceeding twenty-five dollars.

SEC. 5. He shall have power, whenever he shall deem it necessary, to require of any of the officers of said city an exhibit of his books and papers.

SEC. 6. He shall have power to execute all acts that may be required of him by any ordinance made in pursuance of this act.

SEC. 7. He shall also have such power as may be vested in him by ordinance of the city, in and over all places within five miles of the boundaries of the city, for the purpose of enforcing the health and quarantine ordinances and regulations thereof.

SEC. 8. In case the mayor shall be guilty of a palpable omission of duty, or shall willfully and corruptly be guilty of oppression, misconduct, or partiality in the discharge of the duties of his office, he shall be liable to be indicted in the district court of the proper county, and, on conviction, he shall be fined not more than five hundred dollars, and the court shall have the power, upon the recommendation of the jury, to add to the judgment of the court that he be removed from office, and forever thereafter be disqualified from holding office under this act or any ordinances of said city.

ARTICLE VII.

MISCELLANEOUS PROVISIONS.

SECTION 1. The city council shall have the power, for the purpose of keeping the streets, lanes, avenues, and alleys in repair, to require every able-bodied male inhabitant in said city, over the age of twenty-one and under the age of forty-five years, to labor on said streets, lanes, avenues and alleys not exceeding one day in each and every year; and every person failing to perform such labor when duly notified by the street commissioners, shall forfeit and pay two dollars for said day so neglected or refused, to be used in improving the public streets.

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SEC. 2. The members of the city council and firemen shall, during their term of service as such, be exempt from working out any road or street tax, and shall likewise be exempt from serving in the militia of the Territory or on any jury.

SEC. 3. The council shall have the power to provide for the punishment of offenders by imprisonment, in all cases where such offenders shall fail or refuse to pay the fine and forfeiture which may be recovered against them according to the laws of this Territory.

SEC. 4. The city council shall have power by ordinance to levy and collect a special tax on the holders of lots on any street, lane, avenue, or alley, according to their respective fronts, for the purpose of grading, paving, or planking sidewalks, and lighting such street, lane, avenue, or alley, provided such tax shall not exceed the actual cost of said sidewalks and lighting respectively, which tax shall be collected in the same manner as other city taxes.

SEC. 5. That no levy or assessment of taxes, not heretofore provided for, shall be made by said city council, except upon a vote of two-thirds of the members thereof, and every levy of taxes for each purpose shall be set forth in a section of an ordinance by itself.

SEC. 6. After the passage of said ordinance by such vote, the same shall be published in two city newspapers for at least one week, together with a notice that the same will be submitted to a vote of the taxpaying property owners of said city, on a day and at a place in each of the wards to be named, which election shall be conducted as provided in other cases, and the ballots shall be for section (—) of an ordinance entitled (giving title), or against section (—) of an ordinance entitled (giving title); and if two-thirds of said voters shall approve the same, the said ordinance shall be in full force, but if not so approved the same shall be void.

SEC. 7. The city council shall provide the detailed method of conducting such election not inconsistent with this act, but nothing in this and the two preceding sections shall affect the passage of ordinances levying taxes for the maintenance of the city police (not exceeding two in number), the payment of night watchmen (not exceeding two in number), paraphernalia for extinguishing fires, cleaning streets, enclosing and protecting cemeteries, maintaining and keeping in repair the property of the fire department, and necessary notices in two of the city newspapers.

SEC. 8. That the city shall not be liable for any costs in any suit prosecuted in its name in its own courts; nor shall any fees taxed exceed in amount the items of fees allowed for similar services to other officers in this Territory.

SEC. 9. All fines and forfeitures collected for offences committed, or [penalties] incurred within the corporation limits of the city of Helena, shall be paid into the treasury of said city by the officer collecting the same, with details of sources and on what account paid out.

SEC. 10. The city council shall cause to be published, quarterly, in some newspaper of said city, a general statement of the finances of said city, showing in condensed form what moneys have been received, and from what source, and the amount and purpose for which moneys have been paid out or expended. The books of the city assessor and treasurer shall be open, at all proper hours, to the inspection of any taxpayer of said city, or other person.

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SEC. 11. All suits, actions and prosecutions instituted, commenced, or brought by the corporation hereby created, shall be prosecuted in the name of the city of Helena.

SEC. 12. Appeals shall be allowed from decisions in all cases arising under the provisions of this act, or any ordinance passed in pursuance thereof, to the district court, and every such appeal shall be granted in the same manner and with like effect as appeals are taken from and granted from justices of the peace under the laws of this Territory.

SEC. 13. No mayor or alderman of said city shall, during the period for which he is elected, be directly or indirectly pecuniarily interested in any contract let or to be let under the authority of said city, or in any payment to be made thereon, and if any such person shall violate the provisions of this section, he shall be deemed guilty of a misdemeanor under the laws of this Territory, and shall be prosecuted therefor in the district court, and, on conviction thereof, shall be fined not less than two hundred and fifty dollars, nor more than six hundred dollars, or imprisonment three months, or both such fine and imprisonment; and in all contracts involving the expenditure of one hundred dollars or more, the city council shall advertise the same, with specifications, for a period to be prescribed by ordinance, and award the same to the lowest responsible bidder, and they shall so advertise all contracts when convenient so to do.

SEC. 14. Whenever the mayor shall absent himself from the city, or resign, or die, or his office shall otherwise become vacated, the board of aldermen shall immediately proceed to elect one of their own number president, who shall be mayor *pro tem.* until the office shall be filled by election as herein provided.

SEC. 15. This act is declared to be a public act, and may be read in evidence in all courts of law and equity within this Territory without proof.

SEC. 16. The city marshal and the constables within said city of Helena shall be authorized, and have power to execute, anywhere within the county wherein said city may be located, all processes issued by the police magistrate of said city, or other magistrate within said city, and the said marshal shall have power to do all the acts that a constable may lawfully do, and shall receive the same fees that are allowed to constables in similar cases, and shall give bonds as constables are required by law to give.

SEC. 17. All actions brought to recover any penalty or forfeiture under this act, or any ordinance, by-law, or police regulation, made in pursuance thereof, shall be brought in the corporate name of said city.

SEC. 18. In any prosecution for any violation of any ordinance, by-law, or other regulation, the first process shall be by summons, unless oath or affirmation shall be made for a warrant, as in other cases.

SEC. 19. Upon rendition of judgment, the officer rendering such judgment may require the defendant to be confined in jail for a term not exceeding three months; and all persons so committed shall be fined [confined] one day for each five dollars of such judgment and costs, unless he shall pay the same.

SEC. 20. The police magistrate shall have jurisdiction in all cases arising for a violation of any city ordinance, and he shall have the

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same jurisdiction in all civil and criminal proceedings, as is now, or shall hereafter be, conferred upon other justices of the peace of this Territory, and in all courts of this Territory, said police magistrate shall be held to be, and he is hereby, constituted a justice of the peace; but no change of venue shall be allowed from said police magistrate to any other justice of the peace for the hearing or determination of any case arising from violation of any city ordinance.

SEC. 21. The duties of all officers mentioned in this act, not herein prescribed, shall be prescribed by ordinance.

SEC. 22. There shall be a police magistrate, with powers and jurisdiction hereinbefore stated, a city clerk, who shall also act as city attorney, a city assessor, who shall also act as city treasurer and collector, and a marshal, appointed as herein provided. The city clerk, attorney, assessor, treasurer, collector and marshal, in addition to the specific duties herein prescribed, shall severally discharge the duties usually pertaining to said offices respectively, and the manner thereof shall be prescribed by ordinance.

SEC. 23. That E. W. Knight, S. C. Gilpatrick, W. E. Cullen, George Booker and A. M. Holter be and are hereby constituted and appointed to act as commissioners, and to serve in such capacity until the first board of aldermen of said city shall be elected and duly qualified. Such commissioners, or any three of them, shall, if a majority of the electors of said city vote in favor of this charter, within twenty days from its acceptance as aforesaid, proceed to lay out the territory embraced within the limits of the said city of Helena into five wards, and fix the boundaries of the same; and shall also provide for holding the first election herein appointed in the several wards of said city; shall fix the place for holding said election in each of said wards; shall appoint the persons to act as judges of election in each of said wards, who shall be sworn in, and whose places may be filled in case they do not serve, as provided by law in other elections. Said election shall be held and returns thereof be made and certified in all respects as provided by law for the election of members of the legislative assembly. A copy of said returns of such election shall be delivered to the commissioners, who shall canvass the same within three days from the time received, and the persons receiving the highest number of votes for the several officers to be elected under this act, and the aldermen for each ward, shall be declared by said commissioners, or any three of them, duly elected to said offices. If two or more persons shall at said election receive the same number of votes for one of said offices, the commissioners shall determine the same by lot. Thereafter on the first Monday of April in each year the annual election shall take place.

SEC. 24. This charter shall be submitted to the qualified voters of the city of Helena, on the first Monday in March, 1881, at one convenient place therein, by the direction of the commissioners appointed in this act. The ballots shall have written or printed thereon, "For the charter," or "Against the charter," and if a majority of the votes so cast at the election shall be in favor of the charter, then this act to be in full force and effect; but if a majority of the votes so cast shall be against the charter, then this act shall remain suspended, unless thereafter enforced as hereinafter set forth.

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SEC. 25. In case of rejection of this charter by a majority of the voters at the first election, at any time or times thereafter, when sixty of the qualified voters of said city shall petition said commissioners for a resubmmission of said charter to the voters of said city, then it shall be the duty of said commissioners to again submit the adoption or rejection of this charter to a vote of the qualified voters of said city, and if upon said second submission a majority shall adopt this charter then the same shall be in full force and effect from the time of its adoption. Said resubmissions shall be conducted as in section 24 provided; and whenever said commissioners, or a majority of them present in said city, shall be of the opinion that an incorporation is desired, they may resubmit said charter so many times as in their judgment shall seem proper, for adoption or rejection in the manner hereinbefore provided.

SEC. 26. That after the organization of the city council all authority which by special enactment has been conferred on the board of county commissioners of Lewis and Clarke county, or the treasurer thereof, with sole reference to the administration of municipal authority in and disbursement of funds for the benefit of said Helena, is, and the same shall be, vested in said city council.

SEC. 27. This act shall take effect and be in force from and after its passage.

APPROVED February 22, 1881.

AN ACT concerning the counties of Meagher, Choteau, Jefferson, and Gallatin.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That sections 476, 477, 478, 479, 480 and 481, comprising Article XIII of the fifth division of the Revised Statutes, be, and the same are hereby repealed, so far as they relate to the counties of Meagher, Choteau, Jefferson and Gallatin.

SEC. 2. This act shall not be so construed as to create vacancies in the offices of county clerk, county assessor, or superintendent of common schools during the present term of office, unless the officers holding such offices shall notify the board of county commissioners in writing that they, or either of them, desire to be relieved from the discharge of the duties thereof; in which case said board shall declare such offices vacant, and proceed to fill the same by appointment.

SEC. 3. At the next general election to be held in the counties of Meagher, Choteau, Jefferson, and Gallatin, there shall be elected a county clerk, who shall be *ex-officio* recorder of deeds; a county assessor, and a superintendent of common schools; and all the laws relating to the election, qualifications and duties of county clerks, county assessors and superintendents of common schools, be, and the same are hereby revised and re-enacted, and shall take effect and be in force in the aforesaid counties from and after the passage of this act.

APPROVED February 23, 1881.

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AN ACT concerning Custer county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That Article XIV of Chapter XVI, of the fifth division of the Revised Statutes, being sections 482 to 487 of said division, inclusive, so far as the same applies to or affects the county of Custer, be and the said article is hereby repealed.

SEC. 2. There shall be elected in said county at the next general election, and biennially thereafter, an assessor, a county clerk, and a superintendent of common schools; but the sheriff, probate judge and treasurer of said county shall continue to act *ex-officio* as assessor, county clerk, and superintendent of common schools respectively, until the close of the term for which they have been elected.

[NOTE BY THE SECRETARY.—The foregoing act, having been presented to the governor of the Territory of Montana on the 19th day of February, 1881, for his approval, and not having been returned by him to that house of the Legislative Assembly in which it originated within the time prescribed by section 1842, Chapter I, Title XXIII, Revised Statutes of the United States, has become a law without his approval.]

AN ACT attaching Dawson county to Custer county for judicial and other purposes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the county of Dawson be and the same is hereby attached to the county of Custer for judicial purposes.

SEC. 2. The several courts held in and for the county of Custer shall have full power and jurisdiction to try and determine all causes arising in the said county of Dawson, in like manner as if the same arose in the said county of Custer; but in no case shall the costs, charges, or expenses arising therefrom, or in any way connected therewith, be chargeable to the said county of Custer, but the same shall be chargeable to, and defrayed by, the said county of Dawson.

SEC. 3. For such purposes the said courts and the officers thereof shall have and exercise full power and authority over, and shall act in and for, the said county of Dawson as fully as if the same were a part of the said county of Custer: *Provided*, That when any writ or process is to be executed in the county of Dawson, it shall be issued to such county.

SEC. 4. The board of county commissioners, and all the county officers of said county of Custer, shall act as the board of county commissioners and county officers of the said county of Dawson in the same manner, and returns from said county of Dawson shall be made to and through such officers, in the same manner as is now required to be done in said county of Custer; but the said board of county commissioners shall not have power to levy any greater tax in the said county of Dawson than is sufficient to provide for the expenses thereof.

SEC. 5. For such services the said officers shall be entitled to receive from the said county of Dawson the same fees as are provided by law for like services in other counties; but they shall not be entitled to receive any other compensation as officers of the said county of Dawson.

SEC. 6. All acts in conflict with this act are hereby repealed.

APPROVED February 19, 1881.

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AN ACT to amend an act entitled "An act to provide for the support and maintenance of the Helena fire department."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 1 of an act entitled "An act to provide for the support and maintenance of the Helena fire department," passed January 17, 1874, be so amended as to read as follows:

SECTION 1. That the county commissioners of Lewis and Clarke county be and they are hereby authorized to levy a special tax, not to exceed three mills on each dollar, annually, upon all property within the town of Helena liable to taxation, both real and personal, for the support and maintenance of the Helena fire department.

SEC. 2. That section two of the same act be so amended as to read as follows:

SECTION 2. That the tax provided in the preceding section shall be levied in the same manner, and at the same time as are the general taxes of said county of Lewis and Clarke, save that, for the year 1881, the commissioners of said county are hereby required to levy, at their regular March session next ensuing, one mill on the dollar additional to that already levied for said year 1881; and it is hereby made the duty of the county treasurer of said county to collect said tax in the same manner, and at the same time, as other taxes are collected in said county.

SEC. 3. That sections 1 and 2 of said act be and the same are hereby repealed.

SEC. 4. This act shall take effect from and after the date of its passage.

APPROVED February 4, 1881.

AN ACT to repeal an act entitled "An act to provide for the support and maintenance of the Butte City Fire Department."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That an act entitled "An act to provide for the support and maintenance of the Butte City Fire Department," approved February 16, 1877, be and the same is hereby repealed.

SEC. 2. That it is hereby made the duty of the county treasurer of Deer Lodge county, and the treasurer of Butte Fire Company No. 1, to pay over any and all moneys collected under the law hereby repealed, and which have not been expended, to the treasurer of the city of Butte for the use of said city; said moneys to be expended under the ordinances of said city for the support and maintenance of a fire department therein.

APPROVED February 15, 1881.

AN ACT to provide for the election of officers of Beaverhead county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That after the election and qualification of the officers hereinafter provided for, an act entitled "An act to consolidate the county offices of Beaverhead and Custer counties," approved February 5, 1879, so far as the same applies to the said county of Beaverhead be and the same is hereby repealed.

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SEC. 2. That at the next general election, and at each general election thereafter, there shall be elected in said county of Beaverhead, a sheriff, assessor, probate judge, county clerk and recorder, treasurer and superintendent of common schools, which election shall be held pursuant to, and the qualification and duties of said officers shall be controlled and governed by, the general laws of the Territory applicable thereto.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED February 15, 1881.

AN ACT to extend the boundaries of Gallatin county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That all that part of the Crow Reservation included in the treaty now pending before the congress of the United States, shall, upon the ratification of said treaty, be attached to and become a part of Gallatin county, Montana.

APPROVED February 14, 1881.

AN ACT for the relief of Cornelius Hedges.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the Territorial auditor is hereby authorized and required to receive, send and exchange, under the provisions of Chapter LXIII of the fifth division of the Revised Statutes of Montana, the third volume of the reports of the decisions of the supreme court of the Territory of Montana, comprising 560 pages, and settle with Cornelius Hedges, the reporter appointed under said chapter, and pay therefor at the rate of five dollars and sixty cents for each volume of the edition which shall have been printed and bound for the Territory.

APPROVED February 15, 1881.

AN ACT to provide for the compensation of Thomas H. Irvine, Jr.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That there be and is hereby appropriated out of the Territorial treasury the sum of one hundred and sixty dollars to be paid to Thomas H. Irvine, Jr. for money paid, laid out and expended by him in providing an escort for the transportation of convicts to the Territorial penitentiary in the year 1879.

SEC. 2. The Territorial auditor is hereby authorized and instructed to draw his warrant on the Territorial treasurer in favor of the said Thomas H. Irvine, Jr., for the sum of one hundred and sixty dollars, to be paid out of any money in the treasury not otherwise appropriated.

APPROVED February 23, 1881.

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AN ACT for the relief of W. G. Barkley.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the sum of one hundred and ninety-three dollars and thirty-three cents ($193\frac{33}{100}$) be and the same is hereby appropriated out of any moneys in the Territorial treasury, not otherwise appropriated, to W. G. Barkley, late Territorial treasurer, to reimburse him for moneys overpaid by him to the Territory as Territorial treasurer.

SEC. 2. That the auditor of this Territory be and he hereby is authorized and required to draw his warrant on the Territorial treasurer for the said sum of money in favor of the said W. G. Barkley.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 23, 1881.

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JOINT RESOLUTIONS.

COUNCIL JOINT RESOLUTION for the distribution of the Revised Statutes.

Resolved by the Council and House of Representatives of the Legislative Assembly of the Territory of Montana:

That the remaining copies of the Revised Statutes of Montana be distributed as follows:

First. Forty copies to the secretary of the Territory for the use of the next legislative assembly.

Second. Two copies to the Territorial law library; the remainder to the several county and township officers of each county, namely, one copy to each of the county commissioners, county clerks, county treasurers and justices of the peace, upon application to the Territorial auditor therefor.

APPROVED February 10, 1881.

COUNCIL JOINT RESOLUTION for the relief of John W. Eddy.

Resolved by the Council, the House concurring:

That the sum of fifty dollars shall be paid to John W. Eddy, out of any moneys in the Territorial treasury not otherwise appropriated, for services as an accountant and expert, assisting the joint special committee appointed to examine the books of the auditor and treasurer; and the Territorial auditor is hereby required to draw his warrant in favor of said John W. Eddy, for said sum of fifty dollars.

APPROVED February 22, 1881.

HOUSE JOINT RESOLUTION authorizing employment of additional clerks.

Be it resolved by the Legislative Assembly of the Territory of Montana:

That the judiciary committee and the committee on ways and means, of each branch of said assembly be, and they are hereby authorized and empowered to employ additional clerks, not to exceed two in each house, whose duty it shall be to assist the chief clerk, and the enrolling and engrossing clerk and the said committees of the two houses, and perform such duties as may be assigned them; and for such services they shall be entitled to receive the sum of four dollars per day each, for the time actually employed in such service.

APPROVED January 15, 1881.

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HOUSE JOINT RESOLUTION relating to memorial stone for the Washington monument.

WHEREAS, The people of the Territory of Montana, animated by emotions of respect and veneration for the illustrious memory of George Washington, and cherishing with gratitude and pride the greatness of his civic and military services, wish to furnish a memorial block of stone for the Washington monument now being erected in Washington, District of Columbia. Now, therefore,

Be it resolved by the Council and House of Representatives of the Territory of Montana.

First. That a committee of this legislative assembly, consisting of the president of the council and one member of the council, and the speaker of the house of representatives and two members of the house of representatives, be appointed to select for this purpose a block of variegated jasper of suitable dimensions.

Second. That the Territorial auditor is hereby authorized to make necessary contracts in behalf of this Territory to procure the transportation of said block to the Washington National Monument Society, and cause the same to be cut and polished in an appropriate manner at the works of said society; and the Territorial auditor is hereby authorized to draw his warrant upon the Territorial treasurer in favor of the persons with whom said contracts shall have been made for the amounts due thereon.

Third. That the Territorial auditor is hereby authorized to cause to be engraved upon said block the central group and motto of the Territorial seal; that he shall cause the word "MONTANA" to be engraved above said group, and that he shall cause the same to be engraved in a suitable style without reference to the size of said seal.

Fourth. That the governor is hereby requested to inform the officers of the Washington National Monument Society of the action of this legislative assembly.

APPROVED February 16, 1881.

HOUSE JOINT RESOLUTION making appropriation for representation at the International Exhibition in New York in 1883.

Resolved by the House of Representatives and Legislative Council of Montana Territory:

That the sum of five thousand dollars, or so much thereof as shall be found necessary, is hereby appropriated out of the Territorial treasury for the purpose of defraying such necessary expenses as may be incurred in providing for and making a fair and ample representation of the mineral, agricultural, grazing, manufacturing, and other resources of this Territory, at the United States International Exhibition to be held at the city of New York in 1883.

And the Territorial auditor is hereby authorized and instructed to draw his warrant, or warrants, on the Territorial treasurer from time to time for such sums as shall be found necessary, on written application of E. W. Knight, or successor, the commissioner for Montana appointed by the president of the United States: *Provided*, That the entire amount so drawn shall not exceed five thousand dollars as hereinbefore appropriated.

APPROVED February 23, 1881.

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HOUSE JOINT RESOLUTION to pay expenses attending the burial of Hon. Oscar A. Sedman.

Be it resolved by the House of Representatives and Council of the Territory of Montana:

That the sum of three hundred dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the Territorial treasury not otherwise appropriated, to defray the expenses of the members of the committee of this legislative assembly in accompanying the remains of the late Hon. Oscar A. Sedman from Helena to Virgina City, and also to defray the funeral expenses; and that the Territorial auditor be authorized to draw his warrants on the Territorial treasurer in favor of William W. Morris, Amos Eastman, Gilmer, Saulisbury & Co., and other persons, for such sums as may be found by said auditor to be due and payable on account of said expenses.

APPROVED February 22, 1881.

HOUSE JOINT RESOLUTION to pay clerks employed.

Resolved by the House of Representatives and Council of the Legislative Assembly of the Territory of Montana:

SECTION 1. That there be and is hereby appropriated out of the Territorial treasury from any moneys not otherwise appropriated, for pay for services as clerks employed under authority of house joint resolution No. 1:

To H. B. Smith, one hundred and fifty-two dollars.
To W. G. Barkley, one hundred ond fifty-two dollars.
To B. Ezekiel, one hundred and fifty-two dollars.
To S. D. Dent, one hundred and fifty-two dollars.
To W. C. Riddle, twenty-five dollars.

SEC. 2. The Territorial auditor is hereby directed to draw his warrants on the Territorial treasurer in the names of the persons, and for the amounts stated in section 1.

APPROVED February 23, 1881.

HOUSE JOINT RESOLUTION relating to the binding of the laws of the twelfth session of the Legislative Assembly of the Territory of Montana.

Resolved by the House, the Council concurring:

That upon its appearing to the auditor of the Territory of Montana that the secretary has caused to be bound in law calf nine hundred copies of the laws passed at the present session of the Legislative Assembly, in addition to those authorized to be so bound at the expense of the Federal Government, he be and he is hereby authorized and directed to issue his warrant upon the Territorial treasurer, payable out of any moneys in the treasury not otherwise appropriated, in favor of said secretary for such sum as may be necessary to cover the additional cost of so binding said laws, over the cost of binding them in paper: *Provided*, That such additional cost shall not exceed the sum of five hundred and seventy-five dollars.

APPROVED February 23, 1881.

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JOINT MEMORIALS.

HOUSE JOINT MEMORIAL in relation to the Montana Penitentiary.

To the Honorable, the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the legislative assembly of the Territory of Montana, would most respectfully represent to you the following facts, and make to you the following suggestions:

The government of the United States owns the property known as the Montana penitentiary. In this persons convicted of crimes against the laws of Montana Territory are confined and kept by virtue of a contract between said Territory and the United States. The number of prisoners so kept and confined is fifty-six. The number of cells in said penitentiary building is twenty-eight. The size of these cells is six by eight feet, and they were intended for one prisoner only; thus it will be seen there are two prisoners to each cell now, and with the growth of population the number of criminals will surely increase.

It is not conducive to the health of said prisoners, nor is it consistent with proper prison discipline, that two of them should be confined in one of these small cells. Only those who are confined for short terms are employed in any work off of the penitentiary grounds. There is but little work at any time, and for most of the year no work at all upon the penitentiary grounds.

The guard force for these prisoners is so small that but little exercise in the open air can be allowed to the prisoners; the result is that the prisoners confined for long terms are confined most of the time to their cells, and as a result of this the health of such prisoners is becoming impaired, and they are restless and nervous, and great apprehensions are felt as to the result, as the number of such prisoners will naturally increase.

There have been women confined in said penitentiary, and one such prisoner is now held there, and yet there are no proper or adequate accommodations for the same.

The United States grand jury, convened in the county where said penitentiary is located, have frequently examined the same and called attention to the fact that the same was insufficient and too small to meet the demands upon it.

The people of Montana Territory rightly feel that they should not be behind the spirit of the age in the treatment of criminals, and that this, and the promptings of Christian humanity, dictate that prisoners should not be treated in a manner indicating a spirit of revenge, but rather in a way that will sow the seeds of reformation, and make them comprehend that civil society is not their implacable enemy.

Owing to the fact that the United States owns this penitentiary, and the grounds upon which the same is located, this Territory can make no improvements upon the same.

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Undoubtedly the intention was, when this penitentiary was built, that in due time it should become the penitentiary of the future State of Montana; but Montana is still a Territory. Mindful, however, of the above intention, it has not felt itself justified in incurring the great expense of erecting a penitentiary upon grounds owned by itself.

Your memorialists would also recall to you certain other facts: This penitentiary was built with funds derived from a portion of the internal revenue of the United States collected from citizens of Montana; still quite an amount of such revenue is annually collected from this source. This revenue, it should also be borne in mind, has been, and is collected in violation of the maxim so dear to the fathers of this great American Republic, "There should be no taxation without representation," and that this tax is being exacted of an American people imbued with this precept, and who in this remote and isolated frontier, amid great hardships, are building American homes, and laying the foundations of a civil society, that we fondly hope at no distant day the whole American nation will be proud of. And it should also be remembered that the criminals Montana is called upon to punish to-day were not born or educated within her borders.

Under these circumstances your memorialists would respectfully and most earnestly ask that you devote enough of the internal revenue collected in this Territory to so enlarge and improve the above named penitentiary that it may be a fitting place in this age in which to confine criminals, and a credit to the great nation which owns and controls it. And your memorialist will ever pray, etc.

JOHN J. DONNELLY,
Speaker of the House of Representatives.
JOS. K. TOOLE,
President of the Council.

HOUSE JOINT MEMORIAL protesting against the passage of any law authorizing the leasing by the General Government of any public lands.

To the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the council and house of representatives composing the legislative assembly of the Territory of Montana, most respectfully represent that the future wealth, prosperity and settlement of the Territory of Montana will be greatly enhanced, as well as the financial interest of the general government promoted, by the disposal of the lands belonging to the general government, by the various land laws now in force providing for the disposal of the same to actual settlers; and, whereas, your memorialists are of the opinion that the enactment of any law authorizing the leasing of the pasturage or irrigable lands within the borders of our Territory for any term of years would be inimical to the best interests of the general government, and injurious to the true interests of Montana Territory, and would greatly retard the settlement and occupation of the agricultural

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lands in Montana Territory, and place large tracts of the same in the hands and under the control of monopolists and speculators, to the great detriment of the permanent prosperity of our Territory and the general government.

We, your memorialists, therefore respectfully request and petition that no such law be enacted.

Trusting you will give this memorial such consideration as you may deem its merits deserve, your memorialists will, as in duty bound, ever pray.

JOHN J. DONNELLY,
Speaker of the House of Representatives.

JOS. K. TOOLE,
President of the Council.

HOUSE JOINT MEMORIAL concerning Indian reservations.

To the Honorable, the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the council and house of representatives composing the legislative assembly of the Territory of Montana, respectfully represent to your honorable bodies:

That the entire northern end of our Territory is covered by an Indian reservation bounded by these lines: Commencing at the western boundary line of the Fort Buford military reservation on the Missouri river; thence up the main channel of the Missouri river to the Marias river; thence up the main channel of the Marias river to Badger creek, to the summit of the main range of the Rock Mountains; thence along the main range of the said mountains to the forty-ninth parallel of latitude; thence east along the forty-ninth parallel of latitude to the one hundred and fourth degree of longitude; thence south along the one hundred and fourth degree of longitude to the northern boundary line of the Fort Buford reservation; thence following the northern and western lines of the Fort Buford reservation to the place of beginning, containing more than twenty million acres; that this vast tract of land embraces the greater portion of the best pasture land of Montana, and is nominally occupied by not more than thirty-five hundred Indians, comprising those portions of the Piegan, Assinniboine and Gros Ventres tribes not elsewhere provided for; that for the past two years the buffalo and other wild game have been so scarce within the reservation that the Indians have been compelled to roam south of the Missouri river in order to keep their families from starving; that in the opinion of your memorialists there is no probability that the wild game will return to the country above described, and therefore that it is no longer useful to the Indians as a hunting ground.

That the country bordering on said reservation is rapidly filling up with settlers whose principal occupation is stock-raising; that the stock ranges in this Territory now open to occupation are so rapidly filling up with cattle, sheep and horses, as to warrant the belief that before the next session of this legislature there will be no more room to

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expand this industry; that if a portion of this reservation was restored to the public domain, it would rapidly fill up with settlers, thus interposing a barrier between the Indians of British North America and the hostile Sioux and other Indians badly disposed, and prevent the facility with which such Indians now find an asylum after committing depredations on this side of the boundary line.

That it is now, and for a long time has been believed that gold, silver and other precious metals can be found in paying quantities in the Bear Paw and Little Rocky Mountains, if the country was thrown open to settlement.

Wherefore, your memorialists pray that your honorable bodies will speedily take such steps as will secure the removal of the southerly line of said reservation from the Missouri and Marias rivers to a line commencing at the mouth of Milk river on the Missouri; thence up Milk river to a point due north of Fort Assinniboine; thence in a westerly direction, to the mouth of the south fork of the Marias river, (otherwise called Birch creek); thence up said south fork to the summit of the Rocky Mountains. And your memorialists will, as in duty bound, ever pray.

JOHN J. DONNELLY,
Speaker of the House of Representatives.
JOSEPH K. TOOLE,
President of the Council.

HOUSE JOINT MEMORIAL concerning the erection of a custom house at Fort Benton.

To the Honorable, the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the legislative assembly of the Territory of Montana, respectfully represent to your honorable bodies:

Fort Benton, at the head of navigation on the Missouri river, in this Territory, is the port of entry for the district embracing the Territories of Idaho and Montana; that there are no buildings in said town owned by the United States wherein the collector of customs can keep his office, and owing to the rapidly increasing business and population, no suitable building can be leased; that that portion of British North America immediately north of this Territory, now being rapidly settled and developed, depends upon and finds [outlet] through Fort Benton by means of two bonded lines owned and operated by Benton merchants.

Wherefore, your memorialists pray that your honorable bodies will make such appropriation and take such steps looking to the speedy erection of a suitable custom house at said town as to your honorable bodies may seem proper. And your memorialists will, as in duty bound, ever pray.

JOHN J. DONNELLY,
Speaker of the House of Representatives.
JOSEPH K. TOOLE,
President of the Council.

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COUNCIL JOINT MEMORIAL asking appropriation to remove certain falls in Clarke's Fork of the Columbia.

The memorial of the council and house of representatives of the Territory of Montana, comprising its legislative assembly:

To the Honorable, the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the council and house of representatives of the Territory of Montana, respectfully show that an area of this Territory, nearly as large as the State of Ohio, is watered by the confluents of the Clarke's Fork of the Columbia river; that the said river is filled with salmon in large quantities which annually seek the head waters of said river in immense numbers and afford food to people who live along its waters, and their capture and preparation for the market constitute an increasing and remunerative industry which is pursued by many people in Oregon and Washington Territory; that along the said Clarke's Fork of said river and within the limits of the Territory of Washington are situate the Great Falls of Clarke's Fork (called also Pen D'Oreille), which effectually prevent the ascent of the fish into the streams of the Territory of Montana; that the removal of said obstructions has heretofore been and yet remains an object of great solicitude to the people of the Territory of Montana.

Your memorialists are of the opinion that the sum of ten thousand dollars would remove said obstructions, and be of great advantage to the vast area above said falls watered by the north fork of the Columbia river, and would be of inestimable value to twenty thousand citizens of the United States resident in this Territory.

Your memorialists, therefore, pray that an appropriation of ten thousand dollars be made for the purpose of removing such obstructions, to be expended under the direction of proper officers, to accomplish the ends hereby designated. And your memorialists, as in duty bound, will ever pray, etc.

JOHN J. DONNELLY,
Speaker of the House of Representatives.

JOSEPH K. TOOLE.
President of the Council.

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